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BILLIE K ELAM

**MASTER DECLARATION
OF
PROTECTIVE COVENANTS AND RESTRICTIONS
FOR THE
VILLAGES OF WINDING CREEK**

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**MASTER DECLARATION OF PROTECTIVE COVENANTS AND
RESTRICTIONS FOR THE VILLAGES OF WINDING CREEK**

THIS MASTER DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS FOR THE VILLAGES OF WINDING CREEK ("Declaration") is made this 10th day of July, 2006 by **BEAZER HOMES INVESTMENTS, LLC**, a Delaware limited liability company. The term "Declarant" as used herein refers to Beazer Homes Investments, LLC, or any successor or assigns to its rights hereunder as referenced in Article 13, below.

RECITALS

- A. Declarant is the owner of certain property in both Montgomery County, Ohio by deed recorded on August 26, 2005 at Deed Microfiche #05-086099 and Warren County, Ohio by deed recorded on August 26, 2005 in Official Record Volume 3967, Page 295 totaling 609.8493 acres of real estate (the "Real Estate").
- B. Declarant intends, but is not obligated, to develop and subdivide the Real Estate, or portions thereof, (or to have others develop and subdivide the Real Estate, or portions thereof) according to its approved site plan, which is attached hereto as Exhibit A (the "Site Plan"). As such, no party, including but without limitation, the owner of any Lot (hereafter defined), other homebuilder, real estate developer or governmental entity, may rely upon the entirety of the Real Estate being so developed as shown on the Site Plan.
- C. For the purposes of this Declaration, the general plan of development for the Real Estate as set forth on the Site Plan shall be referred to as the "Development."
- D. Declarant plans, but is not obligated, to conduct or permit such development and subdivision of the Real Estate over time in phases according to the Site Plan into multiple residential, commercial, and retail sections.
- E. Declarant has subdivided a portion of the Real Estate as shown on the two (2) record plats for the Falls at Winding Creek, which were recorded at: (i) Plat Book 76, Pages 19 and 20 of the Warren County, Ohio records; and (ii) Plat Book 203, Pages 46 and 46-A of the Montgomery County, Ohio records.
- F. Collectively, such record plats are hereinafter referred to as the "Plats;" all lots, common areas and any other property as shown on the Plats collectively are hereinafter referred to as the "Property," and all such Property is subject to this Declaration. Each subdivision as shown on any of the Plats attached hereto hereinafter will be referred to as a "Subdivision," and each lot of each such Subdivision is individually referred to as a "Lot." A Lot can be property designed for residential, multi-family, commercial, retail or other purposes as

designed for residential, multi-family, commercial, retail or other purposes as designated by Declarant. The legal descriptions for all such Property now subject to this Declaration are attached hereto as Exhibits B-1 through B-2. Declarant plans for the Development to contain up to ten or more different types of Lots, including up to eight different types of residential Lots. This Declaration contains some covenants that apply to all types of Lots and some covenants that apply only to a specific type of Lot. Therefore, the subdivided Property is identified by Lot number on the attached Exhibit C, with designations of Lot type for each Lot. These designations are hereinafter referred to as "Lot Types." Exhibit C also contains (i) designations as to whether such Lot may utilize the "Master Amenities, Common Areas and Easements," and must pay for the maintenance of the same, as noted in Section 9.1 and (ii) "Nominal Value" designations for each Lot for use as described in Section 11.2 and 11.3, below.

- G. In addition to the covenants and restrictions in this Declaration, (i) the Plats may contain certain easements, covenants, conditions and restrictions thereon and (ii) Declarant may, but is not obligated to, subject certain portions of the Property to additional covenants, conditions, restrictions, and easements, and a separate owners' association for any common improvements or services particular to that individual Subdivision, so long as the same does not: (i) conflict with the covenants, conditions, restrictions, and easements contained in the Plats and this Declaration or the by-laws, articles of incorporation or rules and regulations of the Master Association (hereafter defined); or (ii) usurp the powers or duties of the Master Association.
- H. The purpose of this Declaration is to subject the Property that is part of the Development to the covenants, conditions, restrictions, and easements contained herein.
- I. Additionally, Declarant reserves the right, in its sole discretion, to incorporate future phases of property ("Future Phases"), being additional portions of the Real Estate divided and designated by Declarant, into the Property that is subject to this Declaration. Such Future Phases will be both subject to covenants, conditions, restrictions, and easements set forth in this Declaration, and benefited by the right to use the Basic Amenities, Common Areas and Easements (as hereinafter defined) and, if so designated by Declarant, the Master Amenities, Common Areas and Easements (as hereinafter defined). Such addition will be in accordance with the procedures detailed in Section 2.2 of in this Declaration. Upon such incorporation, the term "Property" as used herein will include each such Future Phase, except as noted herein or as noted in such Supplemental Declaration (as hereinafter defined).

- J. Declarant desires to protect the Property by placing appropriate restrictions thereon as to use and improvement of the Lots for the benefit of all owners of the Property and any Future Phases.

DECLARATION

NOW, THEREFORE, Declarant hereby declares, reserves and imposes upon said Property, and makes the same subject to, the following covenants, conditions, restrictions, and easements:

1. **Incorporation of Recitals.** The recitations and defined terms set forth at the beginning of this Declaration are made a part hereof as though fully re-written herein.

2. **Property.**

2.1 **Subject to Declaration.** The Property which is, and shall be held, sold, conveyed or otherwise transferred or occupied and improved subject to this Declaration is particularly described in **Exhibit B-1** through **Exhibit B-2** attached hereto and by this reference is made a part hereof.

2.2 **Annexation of Additional Land.**

2.2.1 Declarant may, from time to time, annex Future Phases into the Property, by recording a supplement to this Declaration with the Recorders' Offices of Warren County, Ohio or Montgomery County, Ohio which such supplementary declaration shall extend the regime of some or all of the covenants, conditions, restrictions and easements to such annexed land, as determined by Declarant, in its sole discretion (a "Supplemental Declaration").

2.2.2 Declarant may also convey undeveloped portions of the Real Estate to third parties, who will develop the same. Such portions of the Real Estate then owned by third parties may also be annexed into the Property, by recording a Supplemental Declaration, provided that such Supplemental Declaration must have thereon the signature of the then-owner of the Property and Declarant.

2.2.3 In both such cases, the Supplemental Declaration shall extend the regime of some or all of the covenants, conditions, restrictions and easements to such annexed land and improvements, as determined by Declarant, in his sole discretion. Upon such annexation, (i) each such Future Phase will be subject to the covenants, conditions, restrictions, and easements set forth in this Declaration (except as may specifically be designated by Declarant in such supplement), (ii) each Lot in such Future Phase will be benefited by the Basic Amenities, Common Areas and Easements as set forth in **Section 9.1.1** and (iii) if specifically so designated in a Supplemental Declaration, each Lot in such Future Phase will be benefited by the Master Amenities, Common Areas and Easements as set forth in **Section 9.1.2**. Included within the foregoing, without limitation, are the following: each owner of a Lot in such Future Phase (except as specifically otherwise designated in such supplement for each Future Phase) (a) may utilize the Basic Amenities, Common Areas and Easements set forth herein and on the Plats, (b) if specifically so designated in a

Supplemental Declaration, may utilize the Master Amenities, Common Areas and Easements, (c) will pay all applicable assessments against his or her Lot, (d) may enforce the covenants, conditions, restrictions against other Lot owners (but not the Declarant), (e) may have such covenants, conditions, restrictions and easements enforced against him by any other Lot owner, the Master Association or the Declarant and (vi) will become a member of the Master Association (as hereafter defined). In addition, from the date of this Declaration until Declarant sells the last parcel of the Real Estate (the "Development Period") to a third party that intends to occupy the same, Declarant shall have the unilateral right, privilege, and option (but not the obligation), from time to time to annex additional land and improvements that are not included in the Real Estate into the Property and also may incorporate such annexed land and improvements as additional phases into the Property without the consent of the Master Association or any other Lot owners. Declarant shall have the unilateral right to transfer to any one or more other persons or entities its right, privilege, and option to annex additional land and improvements herein, provided such transferee or assignee shall be expressly designated by Declarant in writing to be successor to all or any part of Declarant's rights hereunder.

2.3 Additional Covenants, Conditions, Restrictions, and Easements for Annexed Property. Any Supplemental Declaration may contain such additional covenants, conditions, restrictions and easements against any such Future Phase, as Declarant, in its sole discretion, shall deem necessary or appropriate. Such Supplemental Declaration will not reduce, impair, limit, or otherwise revise the covenants, conditions, restrictions, and easements contained in this Declaration as to the Property subject to this Declaration prior to such Supplemental Declaration or usurp the rights and powers of the Master Association described herein as to the Property subject to this Declaration prior to such Supplemental Declaration.

3. Architectural Review.

3.1 Architectural Review Committee: Tenure. Declarant shall establish an architectural review committee, which shall consist of three (3) members, as appointed by Declarant from time to time (hereafter, the "ARC"). Notwithstanding the foregoing, for consideration by the ARC of improvements on any portion of the Property located in Clearcreek Township, there will be an additional representative designated by the Clearcreek Township Trustees serving on the ARC (the "Township Representative") (as long as Clearcreek Township then has a currently-designated representative). Clearcreek Township in Warren County, Ohio will have the right, from time to time, to appoint the Township Representative, and, at its option, to remove such Township Representative from the ARC. Declarant will have the right to remove any remaining member from the ARC. Except for the Township Representative, in the event of the removal, death or resignation of any person serving on the ARC, Declarant shall designate a successor, or successors, who shall have all of the authority and power of his or her predecessor(s). In the event the Township Representative's seat should become vacant for any reason, a successor shall be designated by Clearcreek Township. No person serving on the ARC shall be entitled to compensation for services performed pursuant to this Article 3. However, the ARC may employ one or more architects, engineers, attorneys, or other consultants to assist the ARC in carrying out its duties hereunder, and the Master Association shall pay such consultants for such services as they render to the ARC.

3.2 General Duties and Rights of the Architectural Review Committee. The ARC shall review, and thereafter approve or reject, the architectural and building plans for all homes, accessory structures, if any, other improvements and certain landscaping proposed to be constructed on the Property. Declarant may control and direct the ARC until such time as it no longer owns any portion of the Property or any additional land that may be annexed pursuant to Section 2.2. Should the Declarant decide to relinquish control of the ARC prior to the expiration of the control period stated above, it may do so by causing all of its members to resign upon written notice to the Master Association. After such time that Declarant relinquishes control of the ARC, the members of the ARC will thereafter be appointed, or removed, from time to time, by the Board of Trustees for the Master Association. The ARC may, from time to time, develop, adopt and promulgate architectural guidelines for use in the review and approval of construction and improvement projects that supplement this Declaration. Declarant and the Master Association shall have the right and power to enforce decisions of the ARC in courts of competent jurisdiction, subject to the limitations set forth herein.

3.3 No Construction or Improvement except as Approved by ARC. No party may improve, construct, make, modify, or alter any building or other improvements (including without limitation, houses, garages, secondary structures, decks, spas and hot tubs, swimming pools, playsets, swing sets, tree houses, playhouses (including temporary placement of rubber or plastic playhouses), trampolines, basketball goals, landscaping, streets, driveways, sidewalks, drainage facilities, utility facilities and installations, landscaping, fences, walks, fountains, statuary, flagpoles, exterior paint colors, coloration of exterior shingles, siding and other building materials) (collectively, the "Improvements") without the prior review and written approval of the ARC (the "Final Approval"). Notwithstanding the foregoing, seeding, sodding, and landscaping with plants under 18 inches in height when mature in existing landscaping beds will not require submission to the ARC. The ARC will conduct such review in accordance with this Declaration (as amended), any relevant Supplemental Declaration(s) (as amended), and such standards as may be promulgated by the Master Association, or the ARC. Such review and standards may include, without limitation (in the sole discretion of the ARC): general aesthetic character of the Improvements; placement, orientation and location of the Improvements on a Lot, landscaping species, location and arrangement, architectural style, elevations, grading plan, color, quality, style and composition of exterior materials, including (without limitation) roofs, walls, patios, sidewalks and driveways, location, style, composition and extent of fencing, roof line and orientation, and appropriateness of permitting any proposed structures or improvements. The ARC shall not be obligated under any circumstances to approve any Improvements if it determines, in its sole discretion, the same would detract from the overall character and aesthetics of the Development or any of the Subdivisions.

3.4 Modifications. The ARC shall also set standards, review, and act upon all proposed modifications or improvements to those Lots where a building or buildings have been constructed and sold and are owned by someone other than the Declarant, its successors or assigns, or another builder. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions or alterations, shall be submitted to the ARC for approval as to quality of workmanship and design, harmony of external design with existing structures and location in relation to surrounding structures, topography, and finished grade

elevation. Nothing contained herein shall be construed to limit the right of the Lot owner to remodel the interior of a building or to paint the interior of a building any color.

3.5 Submissions to Architectural Review Committee. Prior to the commencement of construction of any Improvement, an owner of a Lot shall deliver to the ARC in form and substance reasonably satisfactory to the ARC the number of complete sets hereinafter set forth of all of the following ("Design Plans"):

3.5.1 An overall plan for the design of the Improvements, which shall include:

- a. a site plan showing the location, dimensions, orientation to boundary lines, and the set-back lines of proposed buildings, garages, other structures, driveways, sidewalks, fencing, and all other improvements;
- b. design elevation of, a floor plan for, and description of the foundation, height, and size of each structure, including the living area square footage of each structure;
- c. a description and sample of the exterior materials concept for each structure; and
- d. drawings and details of all exterior surfaces, including the roof, showing elevations, and including the color, quality, and type of exterior construction materials.

3.5.2 A landscaping plan, which will include species, layout, location, size, and configuration of all proposed landscaping and landscaping materials detailing the proposed use and treatment of all portions of the Lot not to be covered by sod, structures, or sidewalk or driveway paving (the "Landscaping Plan"); and

3.5.3 All such other information as may be required by the ARC to enable the ARC to determine the location, scale, design, character, style and appearance of such Lot owner's intended improvements.

All of the foregoing shall conform to the applicable provisions of this Declaration. The Lot owner shall supply as many sets of the foregoing, not to exceed three (3), as are requested by the ARC. If a Lot owner has failed to submit Design Plans for approval as required herein, the delay or failure of the ARC to exercise any of the powers granted by this Article 3 shall not be deemed a waiver of the right to do so either before or after a building or other improvement in the Property, or any exterior addition to or alteration therein, has been completed.

3.6 ARC May Supplement Design and Construction Standards. The ARC may specify requirements for the design and construction of Improvements in addition to those set forth herein, including without limitation any of the following: minimum setbacks, driveway access to adjacent street, the location, materials, height and extent of fences, walls or other screening devices,

garage access and the orientation and placement of structures with respect to streets, walks and structures on adjacent land. The ARC shall have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed (or imposed in any applicable Supplemental Declaration) or meet its minimum construction requirements or architectural design requirements or that might not be compatible, in its judgment, with the overall character and aesthetics of each Subdivision or the Development as a whole.

3.7 ARC May Vary, Waive or Amend Design and Construction Standards. As necessary to account for any hardship from the strict application of any of the design and construction standards set forth herein upon the owner of a Lot, or to account for issues such as topography, natural obstructions, aesthetic or environmental considerations or any other basis, in the ARC's sole discretion, the ARC may vary, waive or amend design and construction standards set forth herein or as otherwise established by the ARC under Section 3.6, above. The ARC's decision on a requested variance, waiver or amendment shall be final, conclusive and binding. As with all decisions of the ARC, any variance, waiver or amendment must be in writing. If such variances are granted, no violation of the covenants, conditions, restrictions and easements contained in the Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of the Declaration for any purpose except as to the particular provision hereof covered by the variance (and shall apply only to the particular Lot in question), nor shall it affect in any way the Lot owner's obligation to comply with all governmental laws and regulations.

3.8 Time for Review of Design Plans. Upon submission by the Lot owner to the ARC of a Design Plan in conformity with Section 3.5, above, the ARC shall endeavor to review the same within thirty (30) days from receipt of plans and notify the Lot owner in writing whether the Design Plans are approved or disapproved. The ARC shall approve the plans if such plans do not violate the Declaration, the standards set forth in any applicable Supplemental Declaration, or the guidelines and criteria from time to time existing and established by the ARC, and are consistent with their judgment on aesthetic compatibility of the proposed improvements with other portions of each Subdivision, the Development as a whole, and/or improvements thereon. Any such disapproval shall set forth the specific reason or reasons for such disapproval. Any failure by the ARC to approve or disapprove the Design Plans in writing within such thirty (30) day period shall not constitute a waiver of the requirements of the Declaration. No construction of Improvements provided in the Design Plans (including those resubmitted under Section 3.9 below) shall be commenced until the receipt by such Lot owner of the Final Approval. In the event the ARC fails to either (i) approve or disapprove Design Plans submitted to it, or (ii) request additional information reasonably required within thirty (30) days after submission, such Design Plans shall be deemed disapproved. If the ARC shall disapprove any part of the Design Plans, the Lot owner may revise the Design Plans to incorporate such changes requested by the ARC and may deliver the required number of complete sets of revised Design Plans to the ARC. The ARC shall endeavor to review such revised Design Plans within thirty (30) days after their submission to determine the compliance of such revised Design Plans with the ARC's requested changes and the standards set forth above.

3.9 Changes in Approved Design Plans. A Lot owner shall secure the written approval of the ARC of any change or revisions in approved Design Plans in the manner provided in Section 3.8 for the approval of Design Plans.

3.10 Fee for Review. The Master Association may establish and charge a reasonable fee for review by the ARC of the plans for any improvements. Payment of such fee shall be a condition to approval of any plans submitted.

3.11 No Liability. Neither Declarant, the Master Association or the trustees or officers thereof, the ARC or the members thereof shall be liable in damages to anyone submitting Design Plans to them for approval, or to any owner of a Lot by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such Design Plans, including specifically, but without limitation, consequences of any defect in any Design Plans. The approval of Design Plans shall not be deemed or construed to be an opinion, warranty, representation or statement that the Design Plans are technically sound, that the improvements described will be habitable or safe or that they comply with building, zoning, fire or other codes, statutes, ordinances, rules or regulations. Every person who submits Design Plans to the ARC for approval agrees, by submission of such Design Plans, and every Lot owner agrees, that he or she will not bring action or suit against Declarant, the Master Association, the ARC, or any of the members thereof to recover any such damages. In the event any such person or Lot owner violates this restriction, then such person or Lot owner shall be responsible for all fees and expenses (including attorneys fees) incurred by said defendants in defense of such action.

3.12 Rules and Regulations. The ARC may from time to time, in its sole discretion, adopt, amend and repeal rules and regulations interpreting and implementing the provisions of this Article 3.

4. Restrictions on Use, Design and Construction. In addition to mandatory ARC approval before any construction commences as provided in Section 3.3, above, and except as varied by the ARC pursuant to Section 3.7, above, all Lots and improvements hereunder at a minimum are subject to the restrictions set forth in this Article 4 (except on portions of the Real Estate reserved for retail, commercial or multi-family purposes, which are subject to such alternate covenants as determined by Declarant, in its sole discretion). Because these restrictions are based upon a variety of factors, including without limitation zoning and other governmental restrictions, aesthetic concerns, and the layout of utilities and easements that benefit other Lots and the common areas, the failure by any Lot owner to strictly adhere to the foregoing may result in a forced removal of such improvements following their construction by the Master Association or the Declarant, which forced removal will be without compensation to such Lot owner, and will be at such Lot owner's expense.

4.1 Single Family Residence Uses. The Property described on the attached Exhibits B-1 through B-2 may be used only for one single-family residence per Lot. This restriction will not apply to land in Future Phases unless such restriction is specifically set forth in a Supplemental Declaration as to such land. Any such amendment or Supplemental Declaration will be recorded as provided in Section 2.2.1, above, or Section 14.1, below.

4.2 Secondary Buildings. No structure of a temporary character and no secondary building, trailer, mobile home, tent, shack, barn, or outbuilding shall be permanently or temporarily erected, maintained, or installed on any Lot at any time except as may be approved by the ARC, but in no event shall any such approved structure be used as a residence, either temporarily or permanently. Notwithstanding the above, a Lot owner may be permitted to use a portion of his or her residence as a home office, provided such use is not visible from outside such residence, has no impact on traffic, parking, or noise levels, does not interfere with any other Lot owners' or occupants' use of his or her property, and does not violate any applicable zoning ordinance. The Master Association shall have the sole authority to determine whether any such use is in violation of this "home office" exception.

4.3 Garage and Driveway. In conjunction with the construction of a home on each residential Lot and prior to occupancy of such home, the owner of such Lot will construct (i) a driveway of concrete, bricks, other masonry or asphalt, as determined by the ARC in its sole discretion, and (ii) sidewalks and drive aprons and approaches between the driveway and the developed roadway, all as required to conform with any applicable municipal code, zoning ordinance, PUD approval, or other rules or regulations. Each residence constructed on a Lot will have a minimum total of four (4) parking spaces available in the driveway and garage combined.

4.3.1 For all Lots located in Clearcreek Township only, driveway access to lots with multiple road frontages shall be limited to the road of least traffic generation, as determined by the Warren County Engineer.

4.4 Roof. Except for neo-traditional Lots, for all Lots located in Clearcreek Township only, the material on the main roof of all residences constructed on any Lot will be dimensional asphalt shingles. For neo-traditional Lots, the material on the main roof of all residences constructed may also be standing seam metal roofs. For Lots located in Washington Township, the material on the main roof of all residences constructed on any Lot will be as determined by the ARC. In both Clearcreek Township and Washington Township, accent roofs (such as, but not limited to, garage over-hangs and roofs over bay windows) may be either dimensional shingles or metal of such finish and color as approved by the ARC.

4.5 Neighboring Design. The owner of a Lot may not erect thereon any home that has an exterior elevation that is identical to a home erected on any immediately adjoining Lot.

4.6 Building Materials; Finishes. All homes that are constructed on the Property must have the exterior finishes and floor areas set forth below. Additionally, each Lot has been given a designated "Lot Type" on the attached Exhibit C. Each Lot type will conform to the specific requirements set forth in Sections 4.6.4 through 4.6.11 as set forth below. Notwithstanding anything contained in this Declaration (or any Exhibit hereto) or any other instrument, Declarant will be under no obligation to include any particular Lot Type in the Property, unless specifically so designated by Declarant in this Declaration or in a Supplemental Declaration.

4.6.1 Except for the neo-traditional Lots as provided on Exhibit D-5, and except on portions of the Real Estate reserved for retail, commercial or multi-family purposes, which are subject to such alternate covenants as determined by Declarant, in its sole discretion, and except as provided in Section 4.4, above, and 4.6.2, below:

(a) In Clearcreek Township, all sides of ranch (single-story) residences will consist primarily of either brick or stone.

(b) In Clearcreek Township, two-story residences will have a front façade primarily of either brick or stone. The remaining three (3) sides will consist primarily of either brick or stone on the first floor and the second story may be all or any combination of: brick, stone, reinforced vinyl siding, concrete board, cedar, or redwood.

(c) In Washington Township, all improvements will consist of such primary building materials as are determined by the ARC, without limitation by or reference to Sections 4.6.1 (a) and 4.6.1 (b), above.

4.6.2 Soffits and fascia boards on all sides of residences shall be constructed using vinyl or wood sheathed in vinyl.

4.6.3 All colors for the exterior elements of any home constructed on a Lot, including without limitation shutters, doors, siding, and trim, shall be consistent with the color scheme determined by the ARC, and with respect to each structure and element thereof, as approved by the ARC.

4.6.4 Floor area, additional exterior and construction requirements and landscaping requirements for seventy feet (70') wide Lots are set forth on the attached hereto on Exhibit D-1.

4.6.5 Floor area, additional exterior and construction requirements and landscaping requirements for eighty feet (80') wide Lots are set forth on the attached hereto on Exhibit D-2.

4.6.6 Floor area, additional exterior and construction requirements and landscaping requirements for ninety feet (90') wide Lots are set forth on the attached hereto on Exhibit D-3.

4.6.7 Floor area, additional exterior and construction requirements and landscaping requirements for fifty-five feet (55') wide or "Patio Home" Lots are set forth on the attached hereto on Exhibit D-4.

4.6.8 Floor area, additional exterior and construction requirements and landscaping requirements for fifty feet (50') wide or neo-traditional Lots are set forth on the attached hereto on Exhibit D-5.

4.6.9 Floor area, additional exterior and construction requirements and landscaping requirements for twenty thousand (20,000) square feet Lots are set forth on the attached hereto on Exhibit D-6.

4.6.10 Floor area, additional exterior and construction requirements and landscaping requirements for forty thousand (40,000) square feet Lots are set forth on the attached hereto on Exhibit D-7.

4.6.11 Floor area, additional exterior and construction requirements and landscaping requirements for multi-family Lots will be determined at a later date by Declarant.

4.7 Solar Panels. The owner of a Lot may not erect or maintain on any Lot or home any solar panels.

4.8 Fences and Walls. No fences may be built on any part of any Lot between a line formed by (and extended to the side property lines) the rear corners of the building constructed thereon and the street in front of the building. Fences erected on said Lot from a line formed by (and extended to the side property lines) the rear corners of the building to the back property line may not be in excess of six feet (6') in height. Fences around pools will at a minimum meet the foregoing requirements as well as the requirements imposed by any laws, ordinances, codes, rules and regulations. There shall be no solid (e.g., stockade) or chain-link (whether metal, plastic, vinyl-coated or otherwise) fencing except as may be utilized by builders with the approval of the ARC for temporary storage of building materials and supplies during the construction phase. All fencing on any Lot must be well-maintained at all times.

4.9 Signs. No sign, billboard, or advertisement of any kind shall be displayed on or about any Lot to public view except for (i) signs of no more than five (5) square feet advertising the property for sale or rent, which are permitted only within the boundaries of the homes being sold or rented; (ii) signs used by Declarant to advertise or promote the Property; or (iii) a permanent entrance sign to the Property installed by Declarant.

4.10 Swimming Pools. No aboveground swimming pools shall be erected on any Lot. The design and layout of all in-ground pools, as with all other improvements, are subject to the approval of the ARC.

4.11 Basketball Goals. Basketball goals shall be permitted on any Lot, provided they are installed in compliance with the following criteria: (i) they shall be of a semi-permanent nature and not attached to the residence on the Lot, (ii) they shall have a clear backboard, and (iii) the supporting pole(s) shall be black and the backboard shall be perpendicular to the adjoining street in front of the residence. Portable basketball goals may not be left on or in front of any Lot overnight.

4.12 Mailboxes. The ARC shall establish, from time to time, a standard mailbox for each Lot Type. Other than that standard mailbox, no Lot owner may use any other mailbox to serve any Lot.

4.13 Satellite Dishes. To the extent that the same legally may be limited by private covenant, no freestanding satellite dish, antennas or receivers shall be permitted on any Lot. All satellite dishes, antennas, and receivers must not exceed 18 inches in diameter, and any such satellite dishes, antennas and receivers must be attached to the home and must not exceed two feet (2') in height above the roof line. No satellite dish may be placed on the front elevation of a house or on the front roof of a house.

4.14 Recreational and Play Equipment. Swing sets, jungle-gyms, playhouses or similar yard equipment located on any Lot, must be maintained in safe and good condition. Play sets shall be of semi-permanent nature and the structure shall be constructed out of wood. Absolutely no metal-structured playground equipment is permitted. No play sets shall be permitted in the front yards of any homes and must be located as not to infringe on any rear or side yard setbacks.

4.15 House Numbers Signs. House number signs shall be a minimum size of eight inches tall, and, with the exception of houses with a side-entry garage, shall be mounted at a height of six feet (6') between the garage door and the nearest corner of the house. For houses with a side-entry garage, house number signs shall be mounted on the wall of the garage nearest to the street no more than three feet (3') from the corner of the garage nearest the street.

4.16 Awnings. No awnings are permitted on the front elevation of a house, and no metal or plastic awnings are permitted.

4.17 Yards, Grading, Landscaping, Seeding and Sodding. The owner of such Lot will:

4.17.1 Place sod in the entire cleared portion of any Lot. Notwithstanding the foregoing, if a Lot has a built-in permanent irrigation system, upon approval by the ARC, seeding of all or parts of the Lot may be permitted.

4.17.2 Finish grade elevations in accordance with the grading plan for the Property established by the Declarant and leave uncovered and exposed all sanitary sewer manholes, storm sewer manholes, water main valve boxes, and water tap boxes after finish grade, sodding and seeding of the yards or installation of walks and driveways.

4.17.3 When a new home is constructed on a Lot, the Lot owner will assure that the approved grading, landscaping and seeding or sodding on a Lot is completed within ninety (90) days following the issuance of a certificate of occupancy for the improvements (whether conditional, temporary or partial); PROVIDED, HOWEVER, that if the certificate of occupancy is issued between November 1 of one year until February 28 of the following year, the landscaping, seeding and sodding will occur before the next June 1 following the issuance of such certificate of occupancy.

4.18 Further Subdivision. Except as permitted by the Master Association, the Lots established by the Plats may not be further subdivided, or portions thereof split off and conveyed to any other party, including the owner of an adjoining Lot.

5. Prohibited Activities.

5.1 Nuisance. The owner of a Lot may not perform or permit any noxious or offensive trade or activity upon any Lot, nor anything thereon which may be or become an annoyance or nuisance to the neighborhood.

5.2 Parking and Use of Trucks, Trailers, Boats and Other Vehicles. The owner of a Lot may not perform or permit the parking on any Lot or in front of any Lot of any trucks in excess of one ton, boats, trailers, recreational vehicles, campers, mobile homes, buses, non-passenger vans or storage containers, jet-skis, wave runners and other personal watercraft, dirt bikes or all-terrain vehicles, cars which either are not operational or are unlicensed, except any of such vehicles as are entirely stored or parked in an enclosed garage. Further, the owner of a Lot may not perform or permit the parking on any Lot or in front of any Lot of vehicles with signs or company names, except to the extent that such vehicles (i) are for service personnel working on such residence and (ii) no such vehicle is left on or in front of any Lot overnight. Vehicles being used for the purpose of construction, delivery, or repair work upon any Lot shall be temporarily permitted to park on or in front of any Lot. In addition, no dirt bikes or terrain vehicles may be operated on any Lot. Parking on any street in the Property shall be limited to the side of the street opposite the side of the street where any fire hydrants are located. No vehicle shall be permitted to obstruct any sidewalk, including when such vehicle is parked in a private driveway.

5.3 Trash and Garbage Containers. The owner of a Lot may not perform or permit any Lot to be used or maintained as a dumping ground for rubbish. All trash, garbage or other waste on or about any Lot must be kept in a clean and sanitary container. The owner of a Lot will keep all incinerators and other equipment for the storage or disposal of such waste material in a safe, clean and sanitary condition. The owner of a Lot will keep all trash and garbage containers in a location that is out of public view, except on the day of trash collection and after 6:00 p.m. on the evening prior to the day of trash collection. The foregoing restrictions will not apply to activities of Declarant and its contractors during the original development of improvements of the Property or in the initial construction of homes on Lots.

6. Clean and Neat Premises.

6.1 The owner of each Lot will assure that such Lot is kept clean of debris, trash and junk.

6.2 The owner of each Lot will be responsible for the removal of mud or other debris in the streets of the Property or adjacent public streets caused by the acts or omissions of its contractors, subcontractors, and laborers. Such removal shall be accomplished on the same day that debris and mud problem occurs. The foregoing restriction will not apply to activities of Declarant

and its contractors during the original development of improvements of the Property or additional phases added to the Property or in the initial construction of homes on Lots in the Property.

6.3 Both during the period before construction on a Lot and after the construction of improvements on a Lot, the owner thereof will keep grass and weeds mowed or bush-hogged to a height of no more than eight inches at all times. This restriction will not apply during the period of construction on a Lot.

6.4 The owner of each Lot will assure that any construction activity is concluded on a Lot within one (1) year after it has been commenced.

6.5 To the extent that a Lot owner fails to conform with the foregoing requirements, Declarant or Association may, but is not obligated to, undertake corrective measures to bring the Lot (or surrounding area) into compliance, in which event the Declarant or Association, as the case may be, may invoice the Lot owner for an amount of 125% of the actual cost of causing such compliance and the Lot owner will promptly pay the same. The failure to do so will result in an Individual Lot Assessment as provided in Section 11.6, below, and may be enforced as provided in Article 11, below.

7. **Pets.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except dogs, cats and other household pets, provided they are not kept, bred or maintained for commercial purposes.

8. **Covenants and Restrictions for Ponds.**

8.1 **Discharge of Pollutants.** No obnoxious or offensive substance polluting the ponds shall be discharged or permitted to be discharged in the ponds. Further, no trash, debris, or other unsightly substance shall be placed or permitted to be placed in the ponds.

8.2 **Water Level of Ponds.** No water shall be withdrawn from the ponds in such quantity as would materially lower the level thereof. Declarant, in its sole discretion, may, and following the end of the Development Period, the Association, in its sole discretion, may pump well water, or water from other sources, into the ponds.

8.3 **Use of Ponds.** The ponds only shall be used for (i) storm water retention and management, (ii) water for irrigation in the common areas of the Property and (iii) limited recreational purposes in accordance with the terms set forth in this Declaration and later rules and regulations promulgated by Declarant or the Master Association.

8.3.1 No swimming shall be permitted in the ponds.

8.3.2 No fishing shall be permitted in the ponds.

8.3.3 No commercial use of any kind shall be made of the ponds, except as may be provided in any Supplemental Declaration or upon written approval of the Master Association.

8.3.4 No docks or other similar structures are permitted in the ponds or the Pond Easement areas, except as may be provided in any Supplemental Declaration or upon written approval of the Master Association.

8.3.5 No motorboats or non-motorized crafts of any type shall be permitted in or on the ponds, except as may be provided in any Supplemental Declaration or upon written approval of the Master Association.

8.3.6 All Lot owners and their guests and invitees shall conduct themselves at all times so as not to interfere with the privacy or privileges of any other Lot owners relative to the Ponds.

9. Common Areas and Easements.

9.1 There will be two (2) types of common amenities, common areas and common easements hereunder: (i) "Basic" and (ii) "Master." Except as Declarant may alter rights with respect to portions of the Property reserved for use as that is to be used for retail, commercial or multi-family purposes, Basic Amenities, Common Areas and Easements are intended for the use and enjoyment of all Lot owners and their invitees, and the cost of the maintenance of the same will be borne by all Lot owners as provided herein. Master Amenities, Common Areas and Easements are intended as a matter of right for the use and enjoyment of only certain residential Lot owners and their immediate families living on a Lot (and their invitees, subject to reasonable regulation by the Master Association), and the cost of maintenance of the same will be borne by those benefited Lot owners, except as supplemented in the following sentence. In addition, in the sole discretion of the Master Association, the use and enjoyment of the Master Amenities may be extended to certain other Lot owners and other parties, by the payment of a monthly or annual fee established by the Master Association, limited as provided in Section 9.2.1, below.

9.1.1 Basic Amenities, Common Areas and Easements. Except as provided in this Article 9, every Lot owner shall have a non-exclusive common right and easement of use and enjoyment in and to (i) the Basic Common Areas as shown on the Plats, (ii) all Basic Easements shown on the Plats (which include stormwater drainage easements, walking paths, retention and detention ponds, and sediment control manholes), and (iii) all existing and subsequently constructed improvements upon or within such Basic Common Areas, including improvements which may be dedicated or under contract to the Master Association for the use and benefit of the Lot owners in the Property, and/or for the benefit of other owners outside the Property constructed on portions of one or more Lots (including specifically but without limitation the rights and obligations of Declarant under that certain Grant of Easements between Declarant and Centerville Grace Brethren Church dated December 30, 2005 and filed for record January 9, 2005 in Easement Book 06-002466, page 0015) or on acreage owned by Declarant that is not subject to this Declaration (which include entrance monuments, and the clock tower and water feature). Also, included in the definition of

"Basic Amenities" for purposes of the obligation of the Master Association to maintain the same, but not for the use and enjoyment of the owners of the Lots is street signs, if the same are not maintained by a governmental entity. The improvements that may be constructed in the Basic Common Areas referenced above may include, without limitation: structures for recreation, storage, or protection of equipment; fountains, statuary, sidewalks, common driveways, landscaping, guardhouses, esplanades, walls, bridges, ponds, walking trails, open spaces, recreation areas or other similar and appurtenant improvements. Nothing in this Declaration obligates Declarant to construct any of such facilities or to designate them as Basic Amenities. Any improvements or alterations made upon any common area or common easement as shown on any Plat by the owner of a Lot are made at the risk of such owner and such owner may be forced to remove and/or restore the same to the extent that such improvements interfere with the enjoyment of such common areas or easements as determined by the Master Association. If an amenity, common area or easement is not noted on a Plat or in a Supplemental Declaration specifically as a "Master Amenity, Common Area or Easement" then it will be deemed to be a "Basic Amenity," except for the private roadway noted in Section 9.2.1, below. For example and without limitation, the initial Plats, as referenced in Recital E, above, reference "Sanitary Drainage Easements," "Drainage Easements," and "Sanitary Easements," "Drainage and Waterline Easements," "Waterline Easements," "Open Spaces," and "Reserve" areas. All of the foregoing are "Basic Common Areas, Easements and Amenities" hereunder.

9.1.2 Master Amenities, Common Areas and Easements. As may be noted on the Plat or in any Supplemental Declaration by designation of the same as a "Master Amenity," certain amenities, common areas and easements in the Development are intended as of right for the use and benefit of only certain Lot owners, and not for the use and benefit of certain other Lot owners (unless so determined from time to time by the Association). These amenities are known herein as the "Master Amenities" and may include, without limitation, a pool, a party hall and such other amenities, common areas and easements as may be determined by the Declarant. Nothing in this Declaration obligates Declarant to construct any of such facilities. Only those Lot owners and their immediate families members residing on a Lot (and invitees, subject to reasonable regulation by the Master Association) (i) specifically designated as having the right and privilege of use of the Master Amenities on Exhibit C or in a Supplemental Declaration or (ii) otherwise designated from time to time by the Master Association for a fixed monthly or annual fee, will have the right and privilege of the use of the Master Amenities. No determination by the Master Association as to the right to use such Master Amenities (beyond the Lot owners so designated in this Declaration and in any Supplemental Declaration) or the charge for the same may extend more than one (1) calendar year.

9.2 Private Roadways.

9.2.1 In the Property, there is a private roadway serving Lots 34, 35, 36 and 37 only. This private roadway is a perpetual, appurtenant easement exclusive to (i) these specific Lots only and is intended for the use and benefit of those Lot owners, and their visitors, guests, licensees and assigns, (ii) such emergency vehicles such as fire, police and ambulance as are needed to access such Lots and the improvements thereon, and (ii) the Master Association for the purposes of maintenance as set forth herein. The Master Association reasonably will maintain this roadway free of accumulations of ice, snow and debris, and in good order and condition at the expense of the

owners of Lots 34, 35, 36 and 37 only. The Master Association will maintain separate records of the costs of the maintenance of such roadway. Following any work on such roadway (including without limitation removal of snow and ice, coating, striping, paving, patching, and cleaning), the Association may invoice such Lot owners for such costs, with such Lot owners bearing respectively the following proportion of such costs: the owner of Lot 34 will pay 10% of such costs, the owner of Lot 35 will pay 20% of such costs, the owner of Lot 36 will pay 30% of such costs and the owner of Lot 37 will pay 40% of such costs. Such Lot owners will pay such charges to the Master Association within thirty (30) days after invoicing for the same. Such charges will be in addition to the assessments levied under Section 11, below.

9.2.2 There are or may be one or more additional private roadways in the Development. Except as may be provided in a Supplemental Declaration for Future Phases of the Development as to roadways in a Future Phase or Future Phases, these roadways will be maintained in good condition and repair by the Association, and the cost of the same will be borne by such benefited Lot owners in such proportions as the Master Association may reasonably determine.

9.3 Perimeter Landscape Buffer. "Perimeter Landscape Buffer" areas are noted on certain Plats. In some cases, this Perimeter Landscape Buffer is part of the Basic Common Areas, outside of the Lots, and in other cases it is part of certain Lots. Declarant initially will improve the Perimeter Landscape Buffer both on and outside of Lots. Thereafter, the Master Association will maintain the portions of the Perimeter Landscape Buffer that is a part of the Basic Common Areas and each Lot owner in Clearcreek Township will maintain the landscaping in the Perimeter Landscape Buffer that is on his or her respective Lots in conformity with the requirements of Clearcreek Township. If a Lot owner fails to maintain the Perimeter Landscape Buffer in conformity with the foregoing requirements, then the Master Association may enter such Lot and so maintain the same. In such event, the Master Association may recover the cost of such maintenance from such Lot owner. Nothing contained on the Plats or in this Declaration will give to any other Lot owner the right to enter upon the Perimeter Landscape Buffer on any Lot.

9.4 Stormwater. The owner of each Lot will not construct any improvements, alter the grading, place debris or vegetation, or take any other act that would interfere with the normal flow of water within certain storm water easement areas or storm water drainage ways as noted on the Plats. Any Lot owner that alters or interferes with any water drainage flow, path, or system shall indemnify and hold harmless Declarant from any and all liability or damages (including reasonable attorneys' fees) for the same.

9.5 Right of Declarant to Add, Reduce and Relocate Easements. Declarant hereby declares, creates, and reserves the right to declare on its behalf or grant on behalf of the Master Association or the owners, without consent of the Master Association or any owner, easements across, through, or under any Lot in the Property for the purpose of installing, maintaining, repairing, improving, operating, replacing and otherwise dealing with utilities, sanitary sewer, storm and surface water drainage so long as such easements will not result in a material loss of utility or functionality to the owner of any such Lot. Declarant has no obligation whatsoever to enforce such rights for the benefit of any Lot owner hereunder. Further, Declarant hereby declares, creates and reserves the right to declare on its behalf or grant on behalf of the Master Association or the owners,

without consent of the Master Association or any owner, easements across, through or under any common areas in the Property as noted on the Plats. Declarant also will have the rights (i) to reduce the size of such easement areas from time to time to the extent that such reduction will not result in a material loss of utility or functionality to the owner of any Lot benefited by such easement as a result of the reduction in size of such easement area, (ii) to relocate any such easements to other areas on land then owned by Declarant or by other Lot owners as long as (a) such relocation is at the cost and expense of Declarant, and (b) such relocation will not result in a material loss of utility or functionality to the owner of any Lot benefited by such easement. As such, all Lots shall be subject to an access easement in favor of Declarant and the Master Association in order to exercise any of their respective rights set forth above in this Section 9.5. The foregoing rights are additionally constrained by the regulatory authority of any governmental entity with jurisdiction over the Property and such easements.

10. Property Owners' Master Association.

10.1 Master Association. Concurrent with the execution of this Declaration, Declarant has created under the laws of the State of Ohio The Villages of Winding Creek Master Property Owners Association (the "Master Association") as a non-profit corporation for the benefit of the owners of the Lots in the Property. All Lot owners shall be subject to and abide by the Articles of Incorporation and the By-Laws and Regulations of the Master Association as well as additional rules and regulations of the Master Association that may be promulgated from time to time.

10.2 Membership Rights. Every person or entity who is a record owner of any Lot in the Property is each a member of the Master Association and such membership shall be appurtenant to and not be separated from the ownership of the Lot. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Upon the conveyance of any Lot, the new owner of such Lot will replace the former owner as a member of the Master Association. Such membership rights of all Lot owners are subject to the limitations, terms, and conditions set forth in this Declaration, in the By-Laws or otherwise promulgated by the Master Association.

10.3 Voting Rights. The Master Association will have two (2) classes of voting membership:

10.3.1 Class A Members will be all Lot owners, and shall be entitled to one (1) vote for each Lot owned. Notwithstanding the foregoing, the Declarant, in his sole discretion, may establish other voting rights (lesser or greater per Lot) for owners of portions of Property annexed by a Supplemental Declaration that is to be used for retail, commercial or multi-family purposes. As long as such owner has paid all Assessments (hereinafter defined) current as and when they are due, the owner of each Lot will have one (1) vote as a member of the Master Association. If an owner owns more than one (1) Lot, it will have as many votes as it has Lots. To the extent that the ownership rights in a Lot are divided, each owner will hold the same percentage of right to cast one (1) vote as it has a percentage interest in a Lot.

10.3.2 Class B Members will be the Declarant, who shall be entitled to such number of votes as will constitute seventy-five percent (75%) of the total voting power of the Master Association, so long as Class B Membership continues to exist. Class B Membership shall cease and be converted to Class A Membership (and Declarant may thereafter cast one Class A vote for each Lot owned by it, regardless of whether Declarant pays any or its full share of Assessments) on the happening of the earlier to occur of the following events:

- a. Declarant owns no Lots and has no other real estate to annex into the Development; or
- b. When the Declarant terminates Class B Membership in writing.

At such time that additional real estate is annexed into the Master Association, the Class B Membership of the Declarant shall, if it had previously ceased due to one of the conditions listed above, be reinstated and shall apply to all Lots owned by Declarant in the newly annexed portion of the Property as well as to all Lots owned by Declarant in other areas of the Property. Such reinstatement is subject to further cessation in accordance with the limitations set forth above.

10.4 Maintenance. The Master Association shall be entitled to regulate, improve, control and maintain, as the Master Association deems reasonable in its sole and absolute discretion, all Basic Common Areas, Easements and Amenities and Master Common Areas, Easements and Amenities. The maintenance of such common areas and common easements may include entrance monumentation and landscaped area surrounding the same, drainage easements, utility easements, and all traffic signs on the Property (including, without limitation, all street signs, stop signs, parking signs, speed limit signs, and directional signs). All Lot owners shall pay Assessments pursuant to Article 11 of this Declaration and thereby will share in the cost of all such common maintenance activities undertaken by the Master Association.

10.5 Liability Insurance. The Master Association shall procure and maintain public liability insurance insuring the Declarant, the Master Association, and the Lot owners against any occurrence upon, in, about, or relating to the common areas and easements, which shall afford protection to a limit of not less than One Million Dollars (\$1,000,000) for personal injury, disease, illness or death suffered by one (1) person or with respect to any one (1) occurrence, and to a limit of not less than Fifty Thousand Dollars (\$50,000) in respect to damage to or destruction of property arising out of any one (1) occurrence. Such coverage limits may be increased from time to time as reasonably determined by the board of trustees of the Master Association (the "Board of Trustees") in its sole and absolute discretion.

10.6 Bonding and Director and Officer Insurance. The Master Association shall cause all members of the Board of Trustees, officers, or employees having fiscal responsibilities to be bonded, as it may deem appropriate. In addition, the Master Association may procure director and officer liability insurance in such amounts and upon such terms and conditions as reasonably determined by the Board of Trustees in its sole and absolute discretion.

10.7 Ownership of Property. The Master Association may from time to time acquire, own and dispose of real and personal property, including without limitation property deeded to it by Declarant for use as common areas or easements for the use and enjoyment by the owners of the Lots. The Master Association may also, from time to time, acquire, own and dispose of Lots, if it so desires. Title to any portion of the common areas located on the Property or in future sections of the Property, if any, that is to be owned by the Master Association, or the Lot owners in common, will be so conveyed from Declarant to the Master Association. However, the Declarant shall have the right from time to time to reserve for the purpose of development of the Property all or any portion of the Property for various easements and rights of way, together with the right to dedicate the same where applicable and customary and the right of ingress and egress across the common areas in connection with the development of the Property. The Master Association will accept from Declarant all land and improvements in the Property or adjacent or appurtenant thereto, including fee and easement interests, deeded to it for such purposes and the Master Association will accept all responsibility for such land and improvements and with respect to such easements upon such acceptance. In each such conveyance, if the land and improvements are not designated as Master Amenities, Common Areas or Easements, then they will be deemed to be Basic Amenities, Common Areas or Easements.

10.8 Expandability. As set forth in Section 2.2, Declarant, in its sole discretion, may annex additional real estate in the Development as additional phases into the Property. If it so chooses, Declarant may make the owners of Lots in Future Phases members of the Master Association with the same rights and responsibilities as the owners in this instant phase have, and may add such common areas and easements, landscape easements, drainage easements, and utility easements shown on the plat of such new section or sections, including without limitation, the entrance monumentation and landscaped area surrounding the same, to the areas to be maintained by the Master Association. If such owners of Lots in such additional phases are made members of the Master Association, the Lot owners in such new section will be obligated to pay Assessments to the Master Association in a manner that is the same as the owners in this instant phase have.

10.8.1 Declarant, or any other homebuilder or developer as approved by Declarant, in its sole discretion, may set up a separate owners association (a "Sub-Association") for certain Lots or property located in such Future Phases to enforce, maintain, or otherwise govern matters particular to certain of that annexed property, all as determined by the Declarant. The declaration for any such Sub-Association may supplement the covenants, conditions, restrictions, and easements contained in this Declaration; however, as stated in Section 2.3 above, in no event shall any such Sub-Association declaration reduce, impair, limit, or otherwise revise the covenants, conditions, restrictions, and easements contained in this Declaration or the by-laws, articles of incorporation, or rules and regulations of the Master Association, or usurp the rights and powers of the Master Association.

10.8.2 The Development has been approved for, may in the future be approved for, complies with, or may in the future comply with zoning requirements for certain commercial, retail and multi-family uses on the portions of the Real Estate as shown on the Site Plan. In the event that such commercial, retail or multi-family property is later developed, Declarant reserves, creates, and grants easements and rights for the benefit of the owners of such commercial,

retail and multi-family property to use such common utility and drainage easements for the Development (whether Basic or Master) as, and on such terms as is, determined by Declarant in its sole and absolute discretion. Any and all such rights and easements shall be detailed in a separate instrument for the retail, commercial and multi-family portions of the Development, which shall be duly recorded. As with all of the Real Estate until the time it is incorporated into the Property, at the time the commercial, retail and/or multi-family properties are incorporated into the Property, Declarant will determine and establish which, if any, of the covenants, conditions, restrictions, or easements in this Declaration benefit and burden such land and improvements.

10.9 Bylaws. The Master Association may make whatever rules or bylaws it may choose to govern the organization, provided that the same are not in conflict with the terms and provisions hereof. A copy of the initial by-laws and regulations for the Master Association is attached hereto as Exhibit E.

11. Assessments. The term "Assessment" as used herein means the assessments that are levied pursuant to any of the sections of this Article 11 of the Declaration.

11.1 Capital Contribution Assessments at Closing. Unless otherwise adjusted by Declarant or the Master Association, at the time of the closing on the purchase of a Lot on which a home is constructed by Declarant or any other homebuilder, the purchaser who is the initial owner and occupant of such home constructed on a Lot will be required to pay the Master Association or Declarant, as the case may be, an Assessment in an amount not to exceed One Thousand Dollars \$1,000.00 as purchaser's capital contribution to the working capital of the Master Association (the "Capital Contribution Assessment"). Such Capital Contribution Assessment shall be in addition to any general Assessments or any other Assessments levied by the Master Association, and no Lot owner shall be entitled to a refund of any portion of such Capital Contribution Assessment. In the event that any retail, commercial or multi-family property is annexed into the Master Association and thereby made subject to this Declaration pursuant to Section 2.2 above, then the purchaser of any such retail, commercial or multi-family property may be subject to capital contributions and assessments at such a rate as to be determined by the Master Association.

11.2 General Basic Assessments. Each year, the Master Association, or Declarant, if it has yet to assign the rights and responsibilities of Declarant to the Master Association pursuant to Article 13 of this Declaration, will establish, levy and collect the amount of a General Basic Assessment, in addition to the original Capital Contribution Assessment. Such General Basic Assessment may be billed on a monthly, quarterly, semi-annual or annual basis, as determined by the Master Association or Declarant, and shall be due and payable to the Master Association from the owner of each Lot as and when directed by the Master Association or Declarant. The total amount of such General Basic Assessment will be that amount that is sufficient to discharge the responsibilities of the Master Association as set forth herein as to all matters except those relating to the Master Amenities, Common Areas and Easements, as reasonably determined by Declarant or the Master Association plus an aggregate accumulated reserve amount not to exceed twenty five percent (25.0%) of the current annual expenses as predicted by the Master Association or Declarant. The amount of the General Basic Assessment will be reduced by that amount apportioned to the retail, commercial and multi-family sections as set forth in a Supplemental Declaration. Then, such

reduced amount will be apportioned among the Lots by (i) dividing such amount by the total of all "Nominal Values" attributed to all of the Lots and (ii) for each Lot, multiplying such product by that Lot's "Nominal Value." For example only, if the remaining total General Basic Assessment is \$50,000 for a year, the total Nominal Value of all Lots is 200, and the Nominal Value of Lot 1 is 2, then the General Basic Assessment for Lot 1 is \$500.

11.3 General Master Assessment. Each year, the Master Association, or Declarant, if it has yet to assign the rights and responsibilities of Declarant to the Master Association pursuant to Article 13 of this Declaration, will establish, levy and collect the amount of a General Master Assessment, in addition to the original Capital Contribution Assessment and the General Basic Assessment. Such General Master Assessment may be billed on a monthly, quarterly, semi-annual or annual basis, as determined by the Master Association or Declarant, and shall be due and payable to the Master Association from the owner of each Lot as and when directed by the Master Association or Declarant. The total amount of such General Master Assessment will be that amount that is sufficient to discharge the responsibilities of the Master Association as set forth herein as to the Master Amenities, Common Areas and Easements as reasonably determined by Declarant or the Master Association plus a reserve amount not to exceed twenty five percent (25.0%) of such amount as predicted by the Master Association or Declarant. The amount of General Master Assessment will be reduced (i) by that amount apportioned to the retail, commercial and multi-family sections as set forth in a Supplemental Declaration and (ii) those fees from parties other than the Lots benefiting from the Master Amenities, Common Areas and Easements as set forth in Section 9.2.2, above. Then, such reduced amount will be apportioned among the Lots by (i) dividing such total General Master Assessment by a number which is the total of all "Nominal Values" attributed to all of the Lots and (ii) for each Lot, multiplying such product by that Lot's "Nominal Value." For example only, if the total General Master Assessment is \$50,000 for a year, the total Nominal Value of all Lots is 200, and the Nominal Value of Lot 1 is 2, then the General Master Assessment for Lot 1 is \$500.

11.4 Division of Costs between Basic Amenities and Master Amenities. In order to properly estimate and calculate the amounts due under Sections 11.2 and 11.3, above, the Association will be responsible for properly allocating and accounting for costs separately between costs associated with Master Amenities, Common Areas and Easements on the one hand, and all other costs (which will be chargeable as costs associated with Basic Amenities, Common Areas and Easements) on the other hand.

11.5 Special Assessments. The Master Association or Declarant may establish, levy, and collect Special Assessments at any time for the purpose of defraying, in whole or in part, the cost of any construction, renovation, repair, replacement, or addition of a capital improvement located in either (i) the Basic Amenities, Common Areas and Easements or (ii) the Master Amenities, Common Areas and Easements, which cost has not otherwise been provided for in the General Assessments provided that such special Assessments are approved by a majority of the total number of votes then held by Class A Members and a majority of the total number of votes then held by Class B Members. The special assessments will be calculated and apportioned by the Association and paid by the Lot owners in the same manner as for General Basic Assessments and General Master Assessments set forth in Sections 11.2 and 11.3, above, with only those Lot owners

benefiting from Master Amenities, Common Areas and Easements paying special assessments attributable to that land and improvements.

11.6 Individual Lot Assessment. To the extent that the Association takes action to force compliance with the covenants set forth herein or in any Supplemental Declaration (including without limitation under Sections 4 and 6, above), or incurs costs to prosecute or defend an action relating to any Lot owner (including without limitation under Sections 3.11 and 11.9, below), the same will be a charge and assessment against the Lot and the owner of such Lot subject to such action.

11.7 Property Exempt from Assessments. From and after the date that is the earlier of (i) the conveyance of a Lot from a builder to a purchaser or (ii) twelve (12) months following conveyance of a Lot from Declarant to a builder or, in the case of Declarant, twelve (12) months following the recording of a plat of Subdivision for the subject Lots, the Lots shall be subject to the assessments provided in Section 11.2 through 11.6, above.

11.8 Non-Payment of Assessments and Penalty Assessments. Any Assessments levied pursuant to this Declaration that are not paid on the date when due shall be delinquent and, together with such interest thereon at the rate of ten percent (10.0%) per annum and the cost of the collection thereof including, but not limited to any additional fees levied by the Master Association and reasonable attorneys' fees, shall automatically be a continuing lien on the Lot. Declarant or the Master Association will have the power and authority to establish and levy additional fees and penalties against and collect the same from any Lot owner who is delinquent in payment of Assessments or is in breach of any of the covenants, conditions and restrictions of this Declaration as long as such Lot owner is given at least thirty (30) days written notice of the same and fails to cure such delinquency or breach within such time period.

11.9 Liens. Any delinquent Assessment shall automatically be a lien upon the estate or interest of any Lot owner (including improvements thereon). If such Assessment remains unpaid for thirty (30) days after it becomes due and payable, the Master Association may file a certificate of such lien, subscribed by a member of the Board of Trustees or an officer of the Master Association, with the Recorders' Office of Warren County, Ohio or Montgomery County, Ohio. Such certificate shall contain a description of the Lot, the name or names of the Lot owner(s) and the amount of such unpaid portion of the dues and late charges accrued as of the date of the certificate. Such lien shall remain valid for a period of five (5) years and any renewals thereof, from the time of the filing thereof, unless sooner released or satisfied in the manner allowed by law for the release and satisfaction of mortgages in real property or discharged by the final judgment or order of a court of competent jurisdiction in any action brought to discharge such lien. If the Master Association employs counsel to collect on any such lien or to otherwise collect any Assessment, the owner of such Lot or Lots shall pay all costs incurred in such enforcement, including a reasonable fee for counsel. Notwithstanding the foregoing, any lien by the Master Association upon the estate or interest of any Lot owner shall be subordinate to the first mortgage on said property. Sale or transfer of any Lot shall not affect the lien of such Assessments or fees.

11.10 Assessments for Sub-Associations. Any Sub-Association may establish, levy and collect a Sub-Association Assessment if such is specified, authorized or contemplated in any Supplemental Declaration for that particular Subdivision to defray the costs of additional services and/or amenities to be provided by the Sub-Association that primarily or exclusively benefit the owners of Lots within such Subdivision. Any assessments levied by any applicable Sub-Association shall be levied *in addition to* any Assessment established and levied by the Master Association pursuant to this **Article 11**.

11.11 Personal Liability. In addition, each Lot owner shall be personally liable for all Assessments and fees levied against him or her or any Lot owned by him or her by the Master Association while he or she is a Lot owner.

12. Declarant's Rights During Development Period. The Declarant, or any other homebuilder or developer as, and on such terms as is, approved by Declarant, shall have and hereby reserves the right to reasonable use of the common areas, common facilities, and Lots owned by Declarant or any such other homebuilder or developer for the promotion and marketing of the Development. Without limiting the generality of the foregoing, Declarant may erect and maintain such marketing or directional signs, temporary buildings, model homes, and any other structures as Declarant may reasonably deem necessary on the Property for the promotion, development, or marketing of the Property during the Development Period.

13. Assignment of Rights and Responsibilities of Declarant. On the earlier of (i) the conveyance of seventy five percent (75.0%) of the Lots in the Property to owner-occupants thereof, or (ii) an affirmative assignment in writing from Declarant to the Master Association, the rights of Declarant as Declarant under this Declaration are and will conclusively be deemed to have been assigned to the Master Association; PROVIDED, HOWEVER, that in no event will Declarant be required to obtain the consent of the Master Association as Declarant, of any Lot owner, or of any other party, for any of the improvements that Declarant intends to make to any Lots or portions of the Property or additional real property then owned by it, including without limitation, Declarant's right to expand the Property pursuant to **Section 2.2**, above.

14. Term and Amendment. All of the foregoing covenants, conditions and restrictions shall continue and remain in full force and effect at all times as against the owner of any Lot within the Property, regardless of how title was acquired, for a period of twenty five (25) years from and after the date that this Declaration is filed for record in the Recorders' Offices of Warren County, Ohio and Montgomery County, Ohio, on which date these covenants, conditions, restrictions, and easements shall be automatically extended for successive periods of twenty five (25) years unless on or before the end of one of such extension periods, the then owners of seventy five percent (75.0%) of the Lots in the Property shall by written instrument duly recorded declare an amendment or termination of any or all of these covenants, conditions or restrictions. This Declaration may be terminated or amended at any time, as to any or all of the covenants, conditions, or restrictions, upon the execution and recording of a written instrument, signed by seventy five percent (75.0%) of the Lots in the Property, or a certification signed by an officer of the Master Association that seventy five percent of all Lot owners voted in favor of such amendment, except that (i) no such amendment may impair any of the rights of Declarant hereunder nor shall affect the Lots owned by Declarant,

unless Declarant consents, in writing, to such amendments or termination or (ii) to the extent that any of the covenants set forth in Articles 3, 4, 5, 6, 7 or 8, above, materially are modified with respect to property located in Clearcreek Township, then the written consent of the Board of Trustees of Clearcreek Township to such amendment will be required for such amendment to be effective.

14.1 Amendments by Declarant.

14.1.1 Declarant shall have and reserves the right at any time and from time to time, without requiring the consent of any other party (except only the consent of Clearcreek Township as provided above), to amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that such amendment shall be consistent with and in furtherance of the general plan and scheme of the Development as evidenced by this Declaration, and shall not impair or affect the vested property or other rights of any Lot owner or Lot owner's mortgagee.

14.1.2 Particularly reserved to Declarant is the right and privilege of Declarant to designate, by Supplemental Declaration, additional or more specific restrictions applicable to any portion of the Property so long as Declarant owns at least two-thirds (2/3) of the number of Lots within the portion(s) of Property to be so affected. Such additional restrictions may be imposed by Declarant without the consent of the other one-third (1/3) of Lot owners in such affected area. No such designation of additional or more specific requirements or restrictions, or subsequent change of requirements or restrictions, as provided for herein, shall be deemed to adversely affect any substantial right of any existing Lot owner. Declarant will record any such amendment(s) to this Declaration in the county records of the property affected thereby.

15. Covenants Running with Land and Enforcement. Enforcement of this Declaration shall be by proceedings at law or in equity, and the foregoing covenants, conditions, restrictions, and easements shall run with the land and inure to the benefit of each present and future owner of any Lot. The breach of any of these covenants, conditions and restrictions may be enjoined or remedied by only the following: an owner of any interest in any part of the above-described Property, any heir, executor, administrator or assign of any such person, or the Declarant, the Master Association, or the Declarant's successors in interest or assigns. Declarant, each grantee or such other owner, by the acceptance of a deed of conveyance, accepts the same subject to all covenants, conditions, restrictions, liens, charges, rights and powers created or reserved by this Declaration, and all rights, benefits, and privileges of every character hereby granted, created, reserved, or declared. All impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in such land, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed or other conveyance. To the extent it is authorized to do so, Declarant, for itself and for each Lot owner, hereby extinguishes and/or amends (and consents to the amendment of) any prior covenants or restrictions on the Property or any portion thereof (including Future Phases) that precede the Plats, plats for Future Phases, this Declaration and Supplemental Declarations, to extinguish and terminate any such covenants and to make the same are consistent with such plats and this Declaration, as well as the subdivision of and improvements

on each Lot. Each grantee accepting a deed for a Lot in the Property, whether or not the same incorporates or refers to this Declaration, covenants for himself or herself, his or her heirs, personal representatives, successors, and assigns to observe, perform and be bound by this Declaration and to incorporate the same by reference in any deed or other conveyance of all or any portion of his or her interest in any real property subject hereto. If Declarant or the Master Association employs counsel to enforce any of the foregoing covenants, conditions, restrictions, and easements by reason of such breach, the owner of such Lot or Lots shall pay all costs incurred in such enforcement, including reasonable attorneys' fees. Any enforcement of this Declaration by any Lot owner shall be at the Lot owner's sole cost and expense. No delay or omission on the part of Declarant, the Master Association, or the owners of other Lots in the Property in exercising any rights, power, or remedy herein provided in the event of any breach of the covenants, conditions or restrictions herein contained shall be construed as a waiver thereof or acquiescence thereto. No right of action shall accrue nor shall any action be brought or maintained by anyone whomsoever against Declarant for or on account of its failure to bring any action on account of any breach of these covenants, conditions or restrictions or for imposing restrictions herein which may be unenforceable by Declarant.

16. Non-liability of Declarant. None of Declarant, the Board of Trustees of Clearcreek Township, nor their successors or assigns shall be liable for any claim whatsoever arising out of or by reason of the exercise of discretion or authority (or its decision not to perform any action) pursuant to this Declaration or the By-Laws and Regulations and rules promulgated by the Master Association, whether or not such claims shall be asserted by any Lot owner, occupant, the Master Association, or any person or entity claiming through any of them; or shall be on account of injury to person or damage to or loss of property wherever located and however caused. The foregoing is limited to claims relating to the actions performed pursuant to the powers and authorities of Declarant and the Board of Trustees of Clearcreek Township established by or referenced in this Declaration or the By-Laws and Regulations. The Master Association, without limitation, may not bring any claim against Beazer Homes Investments, LLC.

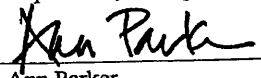
17. Conflict. In the case of any conflict between this Declaration and the Articles of Incorporation or this Declaration and the By-Laws and Regulations, this Declaration shall control.

18. Severability. Invalidation of any one or more of these covenants, restrictions and provisions shall have no effect on other covenants, restrictions and provisions contained herein in this Declaration.

Declarant has caused this Declaration to be executed on the date first written above.

Beazer Homes Investments, LLC,
a Delaware limited liability company

By: Beazer Homes Corp., a Tennessee
corporation, managing member

By: 
Ann Parker,
Cincinnati Division President

STATE OF OHIO)
) SS:
COUNTY OF BUTLER)

BE IT REMEMBERED, that the foregoing instrument was acknowledged before me, a notary public in and for said state, this 10th day of July, 2006 by Ann Parker, Division President of Beazer Homes Corp., a Tennessee corporation, managing member of **BEAZER HOMES INVESTMENTS, LLC**, a Delaware limited liability company, on behalf of the company.

Elizabeth Felton
Notary Public



Township Approval:

The foregoing Master Declaration, and each of the Exhibits attached hereto, are approved by the Board of Trustees of Clearcreek Township and embodies the requirements contained in Resolution No. 2733 dated April 15, 2004, Resolution No. 2851 dated February 3, 2005, Resolution No. 2854 dated March 3, 2005 and Resolution No. 2903 dated June 23, 2005 as to each element that should be set forth as a covenant against the subject property.

The approval and signature below has been authorized by Resolution No. 3105 dated July 6, 2006.

Board of Trustees of Clearcreek Township:

By: Ed Wade

Print: Ed Wade

Title: Chairman

STATE OF OHIO)
) SS:
COUNTY OF WARREN)

BE IT REMEMBERED, that the foregoing instrument was acknowledged before me, a notary public in and for said state, this 10th day of July, 2006 by Ed Wade, Chairman of Clearcreek Township, on behalf of the Board of Trustees.

Elizabeth A. Feltner
Notary Public

This instrument was prepared by:
Christopher P. Finney, Esq.
FINNEY, STAGNARO,
SABA & KLUSMEIER CO., L.P.A.
2623 Erie Avenue
Cincinnati, Ohio 45208
(513) 533-2700 (phone)
(513) 533-2999 (fax)



ELIZABETH A. FELTNER
Notary Public, State of Ohio
My Commission Expires 11-3-07
Recorded in Clermont Co Ohio

Exhibit A

- M = MULTI-FAMILY
- L = LEGACY
- E = ESTATES
- F = FALLS
- TL = TURNING LEAF
- 55 = 55' LOTS
- 70 = 70' LOTS
- 80 = 80' LOTS
- 90 = 90' LOTS
- 110 = 110' LOTS
- 150 = 150' LOTS
- B2 = BUSINESS

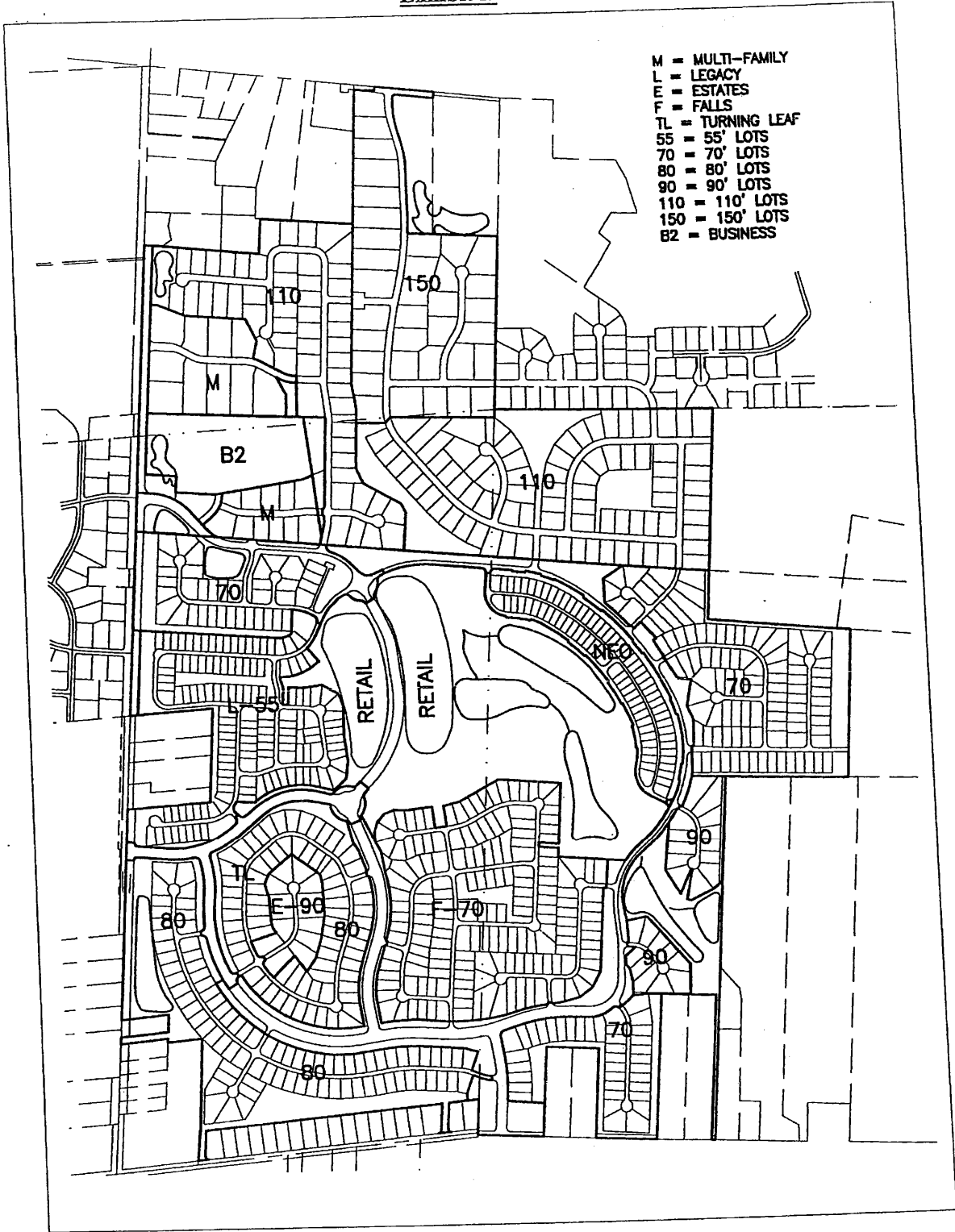


Exhibit B-1

DESCRIPTION OF
26.0278 ACRES
FOR LIEN AGREEMENT PURPOSES
WARREN COUNTY, OHIO
MAY 18, 2006

Situate in State of Ohio, County of Warren, Clearcreek Township, Part of Section 27, Township 3, Range 5, M.R.s, being part of a 422.3318 acre tract as conveyed to Beazer Homes Investments LLC, a Delaware Limited Liability Company by deed of record in O.R. 3967, Page 295, (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Montgomery County Recorder's Office, unless noted otherwise) and being more particularly bounded and described as follows:

Beginning in the centerline of Dayton Lebanon Pike (aka State Route 48) at a railroad spike found, said spike also being the northwest corner of said 422.3318 acre tract of land as conveyed to Beazer Homes Investments, LLC, a Delaware limited liability company, by deed of record in Official Record 3967, Page 295 being to the Recorder's Office, Warren County, Ohio, said spike also being in the Montgomery and Warren County lines and said spike being also the **POINT OF BEGINNING** of the herein described tract of land;

Thence South 84°50'00" East, a distance of 854.81 feet, leaving said Dayton Lebanon Pike and continuing along said Montgomery and Warren County common lines;

Thence continuing through the said 422.3318 acre tract the following described courses:

Thence S 84°50'00" E, a distance of 51.46 feet;

Thence S 84°50'00" E, a distance 531.78 feet;

Thence S 14°18'28" W, a distance 7.46 feet;

Thence along a curve to the left with a radius of 35.00 feet, arc length of 52.15 feet, a chord distance of 47.46 feet, delta angle of 85°22'22", and a chord which bears S 28°22'43" E;

Thence along a curve to the right with a radius of 415.00 feet, arc length of 192.56 feet, a chord distance of 190.84 feet, a delta angle of 26°35'07", and a chord which bears S 57°46'21" E;

Thence along a curve to the left with a radius of 35.00 feet, arc length of 34.91 feet, a chord distance of 33.48 feet, a delta angle of 57°09'17", and a chord which bears S 73°03'26" E;

Thence along a curve to the right with a radius of 130.00 feet, arc length of 134.01 feet, a chord distance of 128.16 feet, a delta angle of 59°03'51", and a chord which bears S 72°06'09" E;

Thence along a curve to the left with a radius of 35.00 feet, arc length of 44.47 feet, a chord distance of 41.54 feet, a delta angle of 72°48'11", and a chord which bears S 78°58'18" E;

Thence along a curve to the right with a radius of 815.00 feet, arc length of 39.04 feet, a chord distance of 39.03 feet, a delta angle of 02°44'39", and a chord which bears N 65°59'56" E;

Thence S 22°37'44" E, a distance of 30.00;

Thence along a curve to the left with a radius of 818.02 feet, arc length of 37.35 feet, a chord distance of 37.35 feet, a delta angle of 02°36'59", and a chord which bears S 66°02'22" W;

Thence along a curve to the left with a radius of 35.21 feet, arc length of 47.08 feet, a chord distance of 43.65 feet, a delta angle of 76°37'35", and a chord which bears S 27°50'01" W;

Thence along a curve to the right with a radius of 130.00 feet, arc length of 96.05 feet, a chord distance of 93.88 feet, a delta angle of 42°20'00", and a chord which bears S 14°48'05" W;

Thence along a curve to the left with a radius of 35.00 feet, arc length of 38.46 feet, a chord distance of 36.56 feet, a delta angle of 62°57'52", and a chord which bears S 04°29'09" W;

Thence S 63°00'13" W, a distance of 80.00;

Thence along a curve to the left with a radius of 35.00 feet, arc length of 38.46 feet, a chord distance of 36.56 feet, a delta angle of 62°57'52", and a chord which bears N 58°28'43" W;

Thence along a curve to the right with a radius of 130.00 feet, arc length of 99.51 feet, a chord distance of 97.10 feet, a delta angle of 43°51'32", and a chord which bears N 68°01'53" W;

Thence along a curve to the left with a radius of 35.01 feet, arc length of 43.83 feet, a chord distance of 41.02 feet, a delta angle of 71°44'29", and a chord which bears N 81°58'30" W;

Thence along a curve to the left with a radius of 385.00 feet, arc length of 241.98 feet, a chord distance of 238.01 feet, a delta angle of 36°00'40", and a chord which bears S 43°31'56" W;

Thence S 25°31'36" W, a distance of 38.20;

Thence N 64°28'24" W, a distance of 30.00;

Thence along a curve to the left with a radius of 35.00 feet, arc length of 54.06 feet, a chord distance of 48.84 feet, a delta angle of 88°29'45", and a chord which bears N 18°43'16" W;

Thence N 62°58'09" W, a distance of 29.15;

Thence along a curve to the left with a radius of 375.00 feet, arc length of 149.65 feet, a chord distance of 148.65 feet, a delta angle of 22°51'51", and a chord which bears N 74°24'04" W;

Thence S 04°10'00" W, a distance of 177.43;

Thence S 53°07'32" W, a distance of 27.47;

Thence S 70°56'55" W, a distance of 49.56;

Thence N 85°50'00" W, a distance of 1063.83;

Thence S 04°10'00" W, a distance of 623.16;

Thence S 86°14'24" W, a distance of 60.58;

Thence N 04°10'00" E, a distance of 1361.32 feet to the POINT OF BEGINNING, containing 26.0278 acres, more or less, subject however to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above described tract of land.

This description has been prepared for lien agreement purposes only.

Prepared by:

R.D. ZANDE & ASSOCIATES

P:\C1005sf.1 610 ACASurvey\Legal Desc\FSSK DOCS\Lien Ag Descriptions\The Falls Warren ac.doc

<u>Sidwell #</u>	<u>Lot#</u>	<u>Sidwell #</u>	<u>Lot#</u>
05-27-200-010	Res 'B'	05-27-200-033	23
05-27-200-011	1	05-27-200-034	24
05-27-200-012	2	05-27-200-035	25
05-27-200-013	3	05-27-200-036	26
05-27-200-014	4	05-27-200-037	Res 'A'
05-27-200-015	5	05-27-200-038	Res 'C'
05-27-200-016	6	05-27-213-001	Res 'E'
05-27-200-017	7	05-27-213-002	Res 'D'
05-27-200-018	8	05-27-213-003	27
05-27-200-019	9	05-27-213-004	28
05-27-200-020	10	05-27-213-005	29
05-27-200-021	11	05-27-213-006	30
05-27-200-022	12	05-27-213-007	31
05-27-200-023	13	05-27-213-008	32
05-27-200-024	14	05-27-213-009	33
05-27-200-025	15	05-27-213-010	34
05-27-200-026	16	05-27-213-011	35
05-27-200-027	17	05-27-213-012	36
05-27-200-028	18	05-27-213-013	37
05-27-200-029	19	05-27-213-014	Res 'AA'
05-27-200-030	20	05-27-214-001	Res 'I'
05-27-200-031	21	05-27-015-001	Res 'H'
05-27-200-032	22	05-27-216-001	Res 'G'

Exhibit B-2

DESCRIPTION OF
THE FALLS 6.130 ACRES
EXHIBIT B-2
MONTGOMERY COUNTY, OHIO
OCTOBER 20, 2005

Situate in State of Ohio, County of Montgomery, Washington Township, Part of Section 27 and part of Section 28, Township 3, Range 5, M.R.s, being part of a 187.517 acre tract as conveyed to Beazer Homes Investments LLC, a Delaware Limited Liability Company by deed of record in I.R. Deed #05-086099, (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Montgomery County Recorder's Office, unless noted otherwise) and being more particularly bounded and described as follows:

Beginning in the centerline of Dayton Lebanon Pike (aka State Route 48), being also the southwest corner of said 187.517 acre tract, and being also the northwest corner of a 422.3318 acre tract of land as conveyed to Beazer Homes Investments, LLC, a Delaware limited liability company, by deed of record in Official Record 3967, Page 295 being to the Recorder's Office, Warren County, Ohio;

Thence North 4 degrees 10 minutes 00 seconds East, a distance of 2096.82 feet, continuing along the line common to the said 187.517 acre tract and said Dayton Lebanon Pike;

Thence crossing the said 187.517 acre tract by the following eight (8) described courses:

1. South 84 degrees 40 minutes 14 seconds East, a distance of 60.01 feet;
2. South 4 degrees 10 minutes 00 seconds West, a distance of 1666.46 feet;
3. South 84 degrees 50 minutes 19 seconds East, a distance of 232.69 feet;
4. South 5 degrees 09 minutes 41 seconds West, a distance of 174.77 feet, being also a point of curvature;
5. Along the arc of a curve to the right, said curve having a radius of 413.50 feet, a delta angle of 18 degrees 04 minutes 57 seconds, the chord of said curve that bears South 51 degrees 51 minutes 26 seconds East, a chord distance of 129.96 feet to a point of tangency;
6. South 42 degrees 48 minutes 57 seconds East, a distance of 20.23 feet;
7. South 40 degrees 31 minutes 31 seconds East, a distance of 148.81 feet, being also a point of curvature;
8. Along the arc of a curve to the left, said curve having a radius of 324.00 feet, a delta angle of 21 degrees 39 minutes 10 seconds, the chord of said curve that bears South 51 degrees 21 minutes 06 seconds East, a chord distance of 121.72 feet to a point of tangency, being also in the line common to Warren County and Montgomery County;

Thence North 84 degrees 50 minutes 00 seconds West, a distance of 617.27 feet to the **POINT OF BEGINNING**, containing 6.130 acres, more or less, subject however to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above described tract of land.

This description has been prepared for lien agreement purposes only.

Prepared by:

R.D. ZANDE & ASSOCIATES

Exhibit C

Lot Number(s)	Lot Type	Right to use Master Amenities, Common Areas and Easements	Nominal Value
1-37	"Seventy Feet (70') Wide" Lots	YES	100

Exhibit D-1

Seventy Feet (70') Wide Lots

(i) **Floor Area:** The total floor area of the main structure, exclusive of the open porches, garages steps, and basements shall be:

- (a) not less than less than one thousand four hundred fifty (1,450) square feet for a ranch (single story) home, and
- (b) not less than two thousand (2,000) square feet for a 2-story home.

(ii) **Landscaping Requirements:** In addition to the requirements for those Lots with Perimeter Landscape Buffers as set forth on the Plats and as referenced in Section 9.3, above, the landscaping must meet the following minimum requirements, within the timeframe provided in Section 4.16.2:

- (a) two trees in the front yard with a minimum caliper of two inches (one of which will be from the "approved list of trees" described below), both in a location specified by the Declarant;
- (b) five evergreen shrubs with a minimum height of 24 inches;
- (c) three deciduous shrubs with a minimum height of 18 inches;
- (d) five evergreen ground coverings with a minimum size of two gallons;
- (e) seven perennials consisting of (i) two ornamental grasses with a minimum size of three gallons each and (ii) five day lilies or other perennials with a minimum size of one gallon each.

A typical landscape layout plan will be provided by the Declarant. Any deviation from the plan will be as approved by the ARC.

For purposes of Exhibits D-1 through D-7 of this Declaration the term "approved list of trees" means one of the following varieties:

- (a) Aristocrat Pear (Pyrus Calleryana Aristocrat);
- (b) Autumn Purple Ash (Fraxinus Americana Autumn Purple);
- (c) Skyline Honey Locust (Gledistia Triacanthos Inermis)
- (d) Chanticleer Pear (Pyrus Calleryana Chanticleer)

Exhibit D-2

Eighty Feet (80') Wide Lots

(i) **Floor Area**: The total floor area of the main structure, exclusive of the open porches, garages, steps, and basements shall be:

(a) not less than less than one thousand eight hundred (1,800) square feet for a ranch (single story) home; and

(b) not less than two thousand four hundred (2,400) square feet for a 2-story home.

(ii) **Landscaping Requirements**: In addition to the requirements for those Lots with Perimeter Landscape Buffers as set forth on the Plats and as referenced in **Section 9.3**, above, the landscaping must meet the following minimum requirements, within the timeframe provided in **Section 4.16.2**:

(a) two trees in the front yard with a minimum caliper of two inches (one of which will be from the "approved list of trees" described below), both in a location specified by the Declarant;

(b) five evergreen shrubs with a minimum height of 24 inches;

(c) five deciduous shrubs with a minimum height of 18 inches;

(d) seven evergreen ground coverings with a minimum size of two gallons;

(e) ten perennials consisting of (i) three ornamental grasses with a minimum size of three gallons each and (ii) seven day lilies or other perennials with a minimum size of one gallon each.

A typical landscape layout plan will be provided by the Declarant. Any deviation from the plan will be as approved by the ARC.

Exhibit D-3

Ninety Feet (90') Wide Lots

(i) **Floor Area:** The total floor area of the main structure, exclusive of the open porches, garages, steps, and basements shall be:

(a) not less than less than one thousand eight hundred (1,800) square feet for a ranch (single story) home; and

(b) not less than two thousand four hundred (2,400) square feet for a 2-story home.

(ii) **Exterior & Design Requirements:** Each house constructed on such a Lot shall have a minimum side yard setback of five feet (5') on one side, and twenty-eight feet (28') on the other side.

(iii) **Landscaping Requirements:** In addition to the requirements for those Lots with Perimeter Landscape Buffers as set forth on the Plats and as referenced in **Section 9.3**, above, the landscaping must meet the following minimum requirements, within the timeframe provided in **Section 4.16.2**:

- (a) two trees in the front yard with a minimum caliper of two inches (one of which will be from the "approved list of trees" described below), both in a location specified by the Declarant;
- (b) five evergreen shrubs with a minimum height of 24 inches;
- (c) five deciduous shrubs with a minimum height of 18 inches;
- (d) seven evergreen ground coverings with a minimum size of two gallons;
- (e) ten perennials consisting of (i) three ornamental grasses with a minimum size of three gallons each and (ii) seven day lilies or other perennials with a minimum size of one gallon each.

A typical landscape layout plan will be provided by the Declarant. Any deviation from the plan will be as approved by the ARC.

Exhibit D-4

"Patio Home" Lots

(i) **Floor Area:** The total floor area of the main structure, exclusive of the open porches, garages, steps, and basements shall be:

(a) not less than less than one thousand four hundred (1,400) square feet for a ranch (single story) home; and

(b) not less than one thousand eight hundred (1,800) square feet for a 2-story home.

(ii) **Landscaping Requirements:** In addition to the requirements for those Lots with Perimeter Landscape Buffers as set forth on the Plats and as referenced in **Section 9.3**, above, the landscaping must meet the following minimum requirements, within the timeframe provided in **Section 4.16.2**:

- (a) one tree with a minimum caliper of two inches;
- (b) five evergreen shrubs with a minimum height of 24 inches;
- (c) three deciduous shrubs with a minimum height of 18 inches;
- (d) five evergreen ground coverings with a minimum size of two gallons;
- (e) seven perennials consisting of (i) two ornamental grasses with a minimum size of three gallons each and (ii) five day lilies or other perennials with a minimum size of one gallon each.

A typical landscape layout plan will be provided by the Declarant. Any deviation from the plan will be as approved by the ARC.

Exhibit D-5

"Neo-Traditional" Lots

(i) **Floor Area**: The total floor area of the main structure, exclusive of the open porches, garages, steps, and basements shall be:

(a) not less than less than one thousand three hundred (1,300) square feet for a ranch (single story) home; and

(b) not less than one thousand eight hundred (1,800) square feet for a 2-story home.

(ii) **Exterior & Design Requirements**:

(a) The exterior wrap of the house constructed on such a Lot will be as determined by the ARC, in its sole discretion; and

(b) The roofing materials of the house constructed on such a Lot will be as determined by the ARC, in its sole discretion.

(iii) **Landscaping Requirements**: In addition to the requirements for those Lots with Perimeter Landscape Buffers as set forth on the Plats and as referenced in **Section 9.3**, above, the landscaping must meet the following minimum requirements, within the timeframe provided in **Section 4.16.2**:

(a) one tree with a minimum caliper of two inches;

(b) three evergreen shrubs with a minimum height of 24 inches;

(c) three deciduous shrubs with a minimum height of 18 inches;

(d) three evergreen ground coverings with a minimum size of two gallons;

(e) seven perennials consisting of (i) two ornamental grasses with a minimum size of three gallons each and (ii) five day lilies or other perennials with a minimum size of one gallon each.

A typical landscape layout plan will be provided by the Declarant. Any deviation from the plan will be as approved by the ARC.

Exhibit D-6

20,000 Square Feet Lots

(i) **Floor Area:** The total floor area of the main structure, exclusive of the open porches, garages, steps, and basements shall be:

(a) not less than less than two thousand four hundred (2,400) square feet for a ranch (single story) home; and

(b) not less than three thousand (3,000) square feet for a 2-story structure.

(ii) **Landscaping Requirements:** In addition to the requirements for those Lots with Perimeter Landscape Buffers as set forth on the Plats and as referenced in Section 9.4, above, the landscaping must meet the following minimum requirements, within the timeframe provided in Section 4.16.2:

- (a) two trees in the front yard with a minimum caliper of two inches (one of which will be from the "approved list of trees" described below), both in a location specified by the Declarant;
- (a) one additional evergreen tree at least 6' in height;
- (c) five evergreen shrubs with a minimum height of 24 inches;
- (d) five deciduous shrubs with a minimum height of 18 inches;
- (e) five evergreen ground coverings with a minimum size of two gallons;
- (f) twelve perennials consisting of (i) two ornamental grasses with a minimum size of three gallons each and (ii) five day lilies or other perennials with a minimum size of one gallon each.

A typical landscape layout plan will be provided by the Declarant. Any deviation from the plan will be as approved by the ARC.

Exhibit D-7

40,000 Square Feet Lots

(i) **Floor Area:** The total floor area of the main structure, exclusive of the open porches, garages, steps, and basements shall be:

(a) not less than less than three thousand (2,400) square feet for a ranch (single story) home;
and

(b) not less than four thousand five hundred (3,000) square feet for a 2-story structure.

(ii) **Landscaping Requirements:** In addition to the requirements for those Lots with Perimeter Landscape Buffers as set forth on the Plats and as referenced in Section 9.3, above, the landscaping must meet the following minimum requirements, within the timeframe provided in Section 4.16.2:

- (a) two trees in the front yard with a minimum caliper of two inches (one of which will be from the "approved list of trees" described below), both in a location specified by the Declarant;
- (b) one additional evergreen tree at least 6' in height;
- (c) five evergreen shrubs with a minimum height of 24 inches;
- (d) five deciduous shrubs with a minimum height of 18 inches;
- (e) five evergreen ground coverings with a minimum size of two gallons;
- (f) twelve perennials consisting of (i) two ornamental grasses with a minimum size of three gallons each and (ii) five day lilies or other perennials with a minimum size of one gallon each.

A typical landscape layout plan will be provided by the Declarant. Any deviation from the plan will be as approved by the ARC.

03/22/07 09:42:54
-1-07-023290 0003
Montgomery County Recorder
Willis E. Blackshear

FIRST AMENDMENT TO MASTER DECLARATION OF PROTECTIVE COVEANTS AND RESTRICTIONS FOR THE VILLAGES OF WINDING CREEK

THIS FIRST AMENDMENT TO MASTER DECLARATION OF PROTECTIVE COVEANTS AND RESTRICTIONS FOR THE VILLAGES OF WINDING CREEK ("First Amendment") is made this 26th day of February, 2007 by BEAZER HOMES INVESTMENTS, LLC, a Delaware limited liability company (the "Declarant").

RECITALS

- A. Declarant is the owner of certain property in both Montgomery County, Ohio by deed recorded on August 26, 2005 at Deed Microfiche #05-086099 and Warren County, Ohio by deed recorded on August 26, 2005 in Official Record Volume 3967, Page 295 totaling 609.8493 acres of real estate (the "Real Estate").
- B. Declarant has previously subjected certain portions of the Real Estate (the "Property") to that certain Master Declaration of Protective Covenants and Restrictions for the Villages Of Winding Creek ("Declaration") by instrument recorded August 29, 2006 in Official Record Volume 4277, Page 476 of the Warren County, Ohio Records and recorded September 26, 2006 in Microfiche # SP-I-06-089623 0057 of the Montgomery County, Ohio Records. Declarant intends that such Declaration, or designated provision thereof, will both burden and benefit certain property located in Warren County, Ohio and Montgomery County, Ohio. PLAT BK 203 PGS. 46 - 46A
- C. Declarant now desires to amend the Declaration in accordance with the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1. **Incorporation of Recitals.** The foregoing recitals and definitions are hereby incorporated into and made a part of this First Amendment, as though set forth verbatim.
- 2. **Exhibit D-7.** Exhibit D-7 of the Declaration is hereby deleted in its entirety and replaced by the attached Exhibit D-7.

3. Miscellaneous.

3.1 The Declaration, as amended only by this First Amendment, remains in full force and effect. Except as expressly modified herein, the Declarant does hereby confirm and ratify the Declaration and all of the terms, covenants and conditions set forth therein. In the event of a conflict between the terms of the Declaration and this First Amendment, the terms of this First Amendment will control.

3.2 The capitalized terms set forth herein shall have the same meaning as specified in the Agreement, unless otherwise defined in this First Amendment.

Declarant has caused this First Amendment to be executed on the date first written above.

DECLARANT:

BEAZER HOMES INVESTMENTS, LLC,
a Delaware limited liability company

By: Beazer Homes Corp.,
a Tennessee corporation, managing member

By: Ann Parker
Ann Parker, Cincinnati Division President

STATE OF OHIO)
) SS:
COUNTY OF BUTLER)

BE IT REMEMBERED, that the foregoing instrument was acknowledged before me, a notary public in and for said state, this 26 day of February, 2007 by Ann Parker, Division President of Beazer Homes Corp., a Tennessee corporation, managing member of **BEAZER HOMES INVESTMENTS, LLC**, a Delaware limited liability company, on behalf of the company.

Melissa Atkins
Notary Public

This instrument was prepared by:
Christopher P. Finney, Esq.
FINNEY, STAGNARO,
SABA & PATTERSON CO., L.P.A.
2623 Erie Avenue
Cincinnati, Ohio 45208
(513) 533-2700 (phone)
(513) 533-2999 (fax)

Max



MELISSA ATKINS
Notary Public, State of Ohio
My Commission Expires 06-04-08

Exhibit E

**BY-LAWS
AND
REGULATIONS
OF
THE VILLAGES OF WINDING CREEK
MASTER PROPERTY OWNERS ASSOCIATION**

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BY-LAWS AND REGULATIONS OF
THE VILLAGES OF WINDING CREEK
MASTER PROPERTY OWNERS ASSOCIATION

ARTICLE I
THE MASTER ASSOCIATION

Section 1.1. Name and Location. The name of the corporation is The Villages of Winding Creek Master Property Owners Association ("Master Association"). The initial principal office of the Master Association shall be located at the offices of Beazer Homes Investments, LLC, which is the developer of the Subdivision (hereinafter referred to as "Declarant"), whose address is 9961 Cincinnati-Dayton Road, West Chester, Ohio 45069. However, such principal office of the Master Association may be changed by the Board of Trustees, and meetings of Members (hereinafter defined) and Trustees (hereinafter defined) may be held at such places as may be designated by the Board of Trustees as well.

ARTICLE II
MEMBERSHIP

Section 2.1. Member. "Member" shall mean any person or entity who is a record owner of any residential building lot ("Lot") which is subject to the Master Declaration (hereafter defined) (the "Property"). If Declarant develops or purchases additional real estate which it wishes to add to the Property, it may, if it so chooses, make the owners of such additional property Members of the Association. As Members, such owners of the lots in additional sections of the Subdivision will have the same rights and responsibilities as the owners in this instant phase have.

Section 2.2. Annual Meeting. The first annual meeting of the Members of the Master Association shall be held at such time as determined by Declarant but not later than within sixty (60) days after the date that the Declarant assigns its rights and interests in the Subdivision to the Master Association pursuant to the terms and conditions set forth in the Master Declaration of Protective Covenants and Restrictions for the Villages of Winding Creek and any amendments thereto (the "Master Declaration"), which is recorded in the official records of Montgomery and Warren Counties, Ohio. Each additional annual meeting of the Members shall be held in the same month of subsequent years, on a date and time fixed by the Board of Trustees at such other time and date as may be determined by the Board of Trustees.

Section 2.3. Special Meetings. Special meetings of the Members may be called at any time by the President, by a majority vote of the Board of Trustees, or upon written request of the Members who are entitled to vote one-third (1/3) of all the votes of the Master Declaration.

Section 2.4. Notice of Meetings. Except as otherwise provided in the Master Declaration, written notice of each meeting of the Members shall be given by, or at the direction of the Secretary or person authorized to call the meeting, by mailing or delivering a copy of such notice, at least fifteen (15) days before such meeting, to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Master Association, or supplied in writing by

each Member to the Master Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in case of a special meeting, the purpose of the meeting.

Section 2.5. Quorum. The presence at the meeting of Members entitled to cast, and of proxies entitled to cast, fifty percent (50%) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in these By-Laws and Regulations. If however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 2.6. Adjourned Meetings. If, at any regular or special meeting of the Members of the Master Association, there shall be less than a quorum present, a majority of those Members present and entitled to vote may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called, at which time the quorum requirement shall be one-third (1/3) of the votes of the membership of the Master Association, and any business which might lawfully have been transacted at the meeting as originally called may be transacted without further notice.

Section 2.7. Proxies. At all meetings of the Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable upon providing written notice to the Secretary of such revocation and shall automatically cease upon conveyance by the Member of his Lot.

Section 2.8. Voting. Subject to Declarant's Class B Membership voting rights as set forth in the Master Declaration, the owner of each Lot will have one (1) vote as a Member of the Master Association. To the extent that the ownership rights in a Lot are divided, each owner will hold the same percentage of right to cast one (1) vote as it has a percentage interest in a Lot. If an owner owns more than one (1) Lot, it will have as many votes as it has Lots. A majority of the voting rights of those present, either in person or by proxy, shall decide any questions brought before the meeting, unless the question is one upon which a different vote is required by provision of the laws of Ohio or these By-Laws and Regulations.

Section 2.9. Suspension of Voting Privileges. No Member shall be eligible to vote or to be elected to the Board of Trustees if any assessment owed by said Member to the Master Association remains outstanding thirty (30) days after the billing date for such assessment on the books of the Master Association.

ARTICLE III

BOARD OF TRUSTEES; SELECTION; TERM OF OFFICE

Section 3.1. Number. The affairs of this Master Association shall be managed by a Board of Trustees, who need not be Members of the Master Association. The original number of Trustees shall be three (3). Thereafter, the number of Trustees shall be not fewer than three (3) nor more than seven (7), as may be determined from time to time by the Master Association.

Section 3.2. Selection, Term of Office. Declarant shall appoint the initial members of the Board of Trustees. The Declarant reserves the right to control and direct the Board of Trustees (including the making of all appointments thereto and removing any member thereof) until such time as twenty-five percent (25%) of the Lots contain fully constructed houses and are sold to homebuyers. At such time as twenty-five percent (25%) of such Lots are sold to homebuyers, those homebuyer/Members shall then have the right to appoint two (2) of the five (5) members of the Board of Trustees. At that time, Declarant shall retain the right to control three (3) members of the Board of Trustees until it no longer owns any portion of the Property. Should the Declarant decide to relinquish control of the Board of Trustees prior to the expiration of the control period stated above, it may do so by causing all its members to resign by providing written notice to the Master Association.

Section 3.3. Removal. Any Trustee may be removed from the Board of Trustees, with or without cause, by a vote of two-thirds (2/3) of the Members of the Master Association. In the event of death, resignation or removal of a Trustee, his successor shall be selected by the remaining members of the Board of Trustees and shall serve for the unexpired term of his predecessor. The provisions of this Section 3.3 shall not apply to members of the Board of Trustees appointed by the Declarant.

Section 3.4. Compensation. Members of the Board of Trustees shall serve without compensation. However, any Trustee may be reimbursed for his reasonable expenses incurred in the performance of his duties.

Section 3.5. Action Taken Without a Meeting. The Trustees shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining the written approval of all the Trustees. Any action so approved shall have the same effect as though taken at a meeting of the Trustees.

ARTICLE IV NOMINATION AND ELECTION OF TRUSTEES

Section 4.1. Nomination. Nomination for election of any members of the Board of Trustees to be appointed by the Members shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Trustees, and two or more Members of the Master Association. The Nominating Committee shall be appointed by the Board of Trustees at least sixty (60) days prior to each annual meeting of the Members, to serve from the time of appointment until the close of the next annual meeting, and such appointment shall be announced at the next regular Board meeting. The Nominating Committee shall make as many nominations for election to the Board of Trustees as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

Section 4.2. Election. Election to the Board of Trustees shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under these By-Laws and Regulations. The persons receiving the largest

number of votes shall be elected. Cumulative voting is not permitted.

Section 4.3. Declarant Appointments. The provisions of this Article IV shall not apply to members of the Board of Trustees appointed by the Declarant.

ARTICLE V
MEETINGS OF TRUSTEES

Section 5.1. Regular Meetings. The Board of Trustees shall meet annually within ten (10) days after the annual meeting of Members and, in addition to the annual meeting, shall meet at regular meetings established as to time and place by resolution of the Board of Trustees. Should any regular meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day that is not a legal holiday.

Section 5.2. Special Meetings. Special meetings of the Board of Trustees shall be held when called by the President of the Master Association or by a majority vote of the Board of Trustees, after not less than three (3) days notice to each Trustee. Members of the Association shall not be entitled to attend such special meetings.

Section 5.3. Quorum. A majority of the number of Trustees shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Trustees present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Trustees.

Section 5.4. Telephonic Meetings. The Trustees may participate in and act at any meeting of the Board of Trustees through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating.

ARTICLE VI
POWERS AND DUTIES OF THE BOARD OF TRUSTEES

Section 6.1. Powers. The Board of Trustees shall have power to:

(a) adopt and publish rules and regulations governing the use of the Master Amenities, Common Areas and Easements and Basic Amenities, Common Areas and Easements, the personal conduct of the Members and their guests thereon, enforcement of the protective covenants and restrictions contained in the Master Declaration and to establish and levy penalties and fees for the infraction thereof;

(b) suspend the voting rights and right to use of the Master Amenities, Common Areas and Easements and Basic Amenities, Common Areas and Easements (except the right to ingress and egress to a Lot) by a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Master Association. Such rights may also be suspended after notice and hearing, for a period not to exceed thirty (30) days, for infraction of

published rules and regulations;

(c) exercise for the Master Association all powers, duties and authority vested in or delegated to this Master Association by the Master Declaration, these By-laws and Regulations and/or the laws of the State of Ohio which are not reserved to the membership by other provisions of these By-Laws and Regulations or the Articles of Incorporation;

(d) declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Trustees; and

(e) employ such independent contractors, and other employees as the Board of Trustees deems appropriate, and to prescribe their duties.

Section 6.2. Duties. It shall be the duty of the Board of Trustees to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by two-thirds (2/3) of Members who are entitled to vote;

(b) oversee all officers, agents and employees of this Master Association, and to see that their duties are properly performed;

(c) as more fully provided hereafter, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every owner subject thereto at least fifteen (15) days in advance of each annual assessment period; and

(3) foreclose a lien against any Lot for which assessments are not paid within sixty (60) days after the due date or bring an action at law against the owner personally obligated to pay the same, if the Board of Trustees deems foreclosure or other action necessary.

(d) issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge not to exceed twenty-five dollars (\$25.00) may be made by the Board of Trustees for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) enforce the protective covenants and restrictions contained in the Master Declaration on behalf of the Master Association and to establish and levy such fees and penalties against any Member for non-payment of assessments, delinquent assessments or breach of such

covenants and restrictions contained in the Master Declaration;

(f) procure and maintain adequate insurance for the Association as set forth in the Master Declaration;

(g) cause all officers having fiscal responsibilities to be bonded; and

(h) cause all the Master Amenities, Common Areas and Easements and Basic Amenities, Common Areas and Easements, landscape easements, drainage easements, and utility easements shown on the Plats, the entrance monumentation and landscaped area surrounding the same, and all traffic signs on the Property (including, without limitation, all street signs, stop signs, parking signs, speed limit signs, and directional signs) to be maintained.

ARTICLE VII OFFICERS AND THEIR DUTIES

Section 7.1. Enumeration of Officers. The officers of this Master Association shall be a President and Vice-President, who shall at all times be members of the Board of Trustees, a Secretary, and a Treasurer, and such other officers as the Board of Trustees may from time to time by resolution create.

Section 7.2. Election of Officers. While the Declarant retains any Class B Membership voting rights, the Declarant shall appoint the officers of the Master Association. After such time, the election of officers shall take place at the first meeting of the Board of Trustees following each annual meeting of the Members.

Section 7.3. Term. The officers of this Master Association shall be elected annually by the Board of Trustees and each shall hold office for one (1) year and until his successor is elected and qualified, unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 7.4. Special Appointments. The Board of Trustees may elect such other officers as the affairs of the Master Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board of Trustees may, from time to time, determine.

Section 7.5. Resignation and Removal. Any officer may be removed from office with or without cause by a majority vote of the Board of Trustees. Any officer may resign at any time by giving written notice to the Board of Trustees, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 7.6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Trustees. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7.7. Multiple Offices. The same person may hold the office of Secretary and Treasurer. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4 of this Article.

Section 7.8. Duties. The duties of the officers are as follows:

(a) President - The President shall preside at all meetings of the Board of Trustees; shall see that orders and resolutions of the Board of Trustees are carried out; and shall act as chief executive officer.

(b) Vice-President - The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by him or her by the Board of Trustees.

(c) Secretary - The Secretary shall cause the record the votes and keep the minutes of all meetings and proceedings of the Board of Trustees and of the Members; serve notice of meetings of the Board of Trustees and of the Members; keep appropriate current records showing the Members of the Master Association together with their addresses, and shall perform such other duties as required by the Board of Trustees. In addition, it shall be the duty of the Secretary to see that the Notice of Continued Existence for the Association is regularly filed with the Secretary of the State of Ohio, to guarantee that the corporate charter shall remain in good standing.

(d) Treasurer - The Treasurer shall receive and deposit in appropriate bank or savings and loan accounts all monies of the Master Association and shall disburse such funds as directed by resolution of the Board of Trustees; keep proper books of accounts; cause an annual audit of the Master Association books to be made by a certified public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Members at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE VIII COMMITTEES

The Board of Trustees shall appoint a Nominating Committee, as provided in these By-Laws and Regulations. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out its purposes.

ARTICLE IX INDEMNIFICATION OF TRUSTEES AND OFFICERS

The Association shall indemnify each person, and the heirs, legal representatives, executors, and administrators of such person, who is or was a Trustee or officer of this Association, or of any other corporation if serving as such at the request of this Association, against all costs and expenses reasonably incurred by him or her or imposed upon him or her in connection with or arising out of

any claim, action, suit, proceeding, or investigation, civil, criminal, or administrative, of whatever nature, to which he is made or threatened to be made a party or in which he is necessarily involved, by reason of his being or having been a Trustee or officer of this Association or such other corporation (whether or not he continues to be a Trustee or officer at the time of incurring such expenses), or in connection with any negotiation or settlement thereof or appeal therein, except in relation to matters as to which he shall be finally adjudged liable for negligence or guilty of misconduct in the performance of his duties as such Trustee or officer, and provided that indemnification shall be made only if such Trustee or officer is determined in the manner hereinafter provided to have been acting in good faith in which he reasonably believed to be the best interests of the Association and, in any matter the subject of a criminal action, suit, or proceeding, had no reasonable cause to believe that his conduct was unlawful.

There shall be included in such indemnification, together with all other costs and expenses, attorneys' fees and disbursements, judgments (other than amounts paid or required to be paid to the Association itself), fines, and penalties and amounts paid in settlement (other than amounts paid or agreed to be paid to the Association itself), provided that, in the case of amounts paid in settlement, the amount thereof shall have been approved by a judicial or administrative adjudication or by the disinterested Trustees or independent counsel, as hereinafter provided.

Entry of a judgment by consent as part of a settlement or, in the case of a criminal action, suit, or proceeding, the entering of a plea of nolo contendere, or its equivalent, shall not of itself be deemed an adjudication or determination that the person consenting to such judgment or entering such plea has been negligent or guilty of misconduct in the performance of his duties as such Trustee or officer, or that the action complained of was not taken in good faith in the reasonable belief that it was in the best interests of this Association, or that such person had reasonable cause to believe that his conduct was unlawful.

In the case of an adjudication in which the Trustee or officer involved is successful, he shall be entitled to indemnification as of right. In all other cases in which the Trustee or officer involved may be entitled to indemnification by reason of the provisions of this Article IX, indemnification shall be made only upon either (a) the determination in writing of a majority of the disinterested Trustees of the Association, where all of the disinterested Trustees constitute a majority of the whole Board of Trustees, that the Trustee or officer in question was not negligent or guilty of misconduct in the performance of his duties and that he was acting in good faith in what he reasonably believed to be the best interests of the Association and, in any matter the subject of a criminal action, suit, or proceeding, had no reasonable cause to believe that his conduct was unlawful, or (b) if one-half or more of the members of the Board of Trustees of the Association are parties to the claim, action, suit, proceeding, or investigation in question or for any other reason are not disinterested, a determination to the same effect as that set forth in the foregoing clause made by and set forth in a written advice of independent counsel, who may be the regular counsel of the Association, concurred in writing by a majority of the disinterested Trustees of the Association if there shall be any such. In making the foregoing determination, a disinterested Trustee shall be entitled to place conclusive reliance upon the written advice of such counsel. For purposes of this Article, a Trustee shall be considered disinterested unless he has, or at any time has had, an interest adverse to the Association in the claim,

action, suit, proceeding, or investigation, or the subject matter or outcome thereof, in which event he shall not be considered disinterested. Anything in this Article to the contrary notwithstanding, if a judicial or administrative body determines as a part of the settlement of any claim, action, suit, proceeding, or investigation that the Association should indemnify a Trustee or officer for the amount of the settlement, the Association shall indemnify the Trustee or officer for the amount of the settlement in accordance with such determination.

Expenses incurred with respect to any claim, action, suit, proceeding, or investigation of the character described in this Article may be advanced by the Association prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the Trustee or officer to repay such amount if it is ultimately determined, under the procedure set forth in this Article, that he is not entitled to indemnification or, where indemnification is granted, to the extent the expenses so advanced exceed the indemnification to which he is entitled.

The foregoing right of indemnification shall not be exclusive of any other rights which any Trustee or officer may be or become entitled to by law or be lawfully granted by contract with the Association, by vote of the Members or otherwise.

In the discretion of the Board of Trustees, any other employee of the Association who is not a Trustee or officer thereof may be indemnified by the Association under the circumstances and to the extent that such indemnification of a Trustee or officer would be required or authorized under this Article.

ARTICLE X MISCELLANEOUS

Section 10.1. Books and Records. The books, records and papers of the Master Association shall at all times, during reasonable business hours, be subject to inspection by any Member, and any holder, insurer or guarantor of a first mortgage on a Lot. The Articles of Incorporation and the By-Laws and Regulations of the Master Association shall be available for inspection by any Member at the principal office of the Master Association, where copies may be purchased at reasonable cost.

Section 10.2. Fiscal Year. The fiscal year shall be the calendar year, except that the first fiscal year of the Master Association shall begin on the date of incorporation. The commencement date of the fiscal year herein established may be changed by the Board of Trustees should corporate practice subsequently dictate.

Section 10.3. Execution of Master Association Documents. All notes, contracts, other documents, checks, and other drafts shall be executed on behalf of the Master Association by such officers, agents or other persons as are from time to time designated by the Board of Trustees.

Section 10.4. Amendments. These By-Laws and Regulations and/or the Articles of Incorporation for the Master Association may be amended by a vote of at least three-fourths (3/4) of the voting rights of the Members entitled to vote at a regular or special meeting of the Members.

**SECOND SUPPLEMENT TO
MASTER DECLARATION OF PROTECTIVE COVENANTS AND
RESTRICTIONS FOR THE VILLAGES OF WINDING CREEK**
(The Springs, Phase I, Montgomery County, Ohio)

THIS SECOND SUPPLEMENT TO MASTER DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS FOR THE VILLAGES OF WINDING CREEK ("Second Supplement") is made this 20th day of February, 2007 by **BEAZER HOMES INVESTMENTS, LLC**, a Delaware limited liability company. The term "Declarant" as used herein refers to Beazer Homes Investments, LLC, or any successor or assigns to its rights hereunder as referenced in Article 13 of the Declaration (hereinafter defined).

RECITALS

- A. Declarant is the owner of certain property in both Montgomery County, Ohio by deed recorded on August 26, 2005 at Deed Microfiche #05-086099 and Warren County, Ohio by deed recorded on August 26, 2005 in Official Record Volume 3967, Page 295 totaling 609.8493 acres of real estate (the "Real Estate").
- B. Declarant has previously subjected certain portions of the Real Estate (the "Property") to that certain Master Declaration of Protective Covenants and Restrictions for the Villages Of Winding Creek ("Declaration") by instrument recorded August 29, 2006 in Official Record Volume 4277, Page 476 of the Warren County, Ohio Records and recorded September 26, 2006 in Microfiche # SP-I-06-089623 0057 of the Montgomery County, Ohio Records. Declarant intends that such Declaration, or designated provision thereof, will both burden and benefit certain property located in Warren County, Ohio and Montgomery County, Ohio.
- C. Declarant has reserved unto itself in Article 2 of the Declaration the right to subject additional portions of the Real Estate to the Declaration and to define which of the easements, covenants, conditions, assessments and provisions of the Declaration will apply to such newly-added Property.
- D. Declarant has previously subjected the portion of the Real Estate commonly known as Creekside, Section 1 to the Declaration in the first supplement to the Declaration (the "First Supplement") by instrument recorded 07-015424 in Official Record Volume , Page of the Montgomery County, Ohio Records.
- E. Declarant desires to subject the property located in Montgomery County, Ohio attached hereto as Exhibit A ("Second Supplemental Property") to all of the easements, covenants, conditions, assessments and provisions of the Declaration.

NOW, THEREFORE, Declarant hereby declares, reserves and imposes upon the Second Supplemental Property, and makes the same subject to, the following covenants, conditions, restrictions, and easements:

1. **Incorporation of Recitals.** The recitations and defined terms set forth at the beginning of this Second Supplement are made a part hereof as though fully re-written herein.

2. **Second Supplemental Property is Subject to Declaration.** Pursuant to the rights of Declarant reserved in **Article 2** of the Declaration, the Second Supplemental Property is made a part of the Property (as defined in the Declaration) and is burdened by and benefited by all provisions of the Declaration. All capitalized terms used herein, that are not otherwise defined herein, will have the meanings ascribed to them in the Declaration. The term "Lot" as used in the Declaration includes, without limitation, each Lot of the Second Supplemental Property. The Lot Type (as defined in **Recital F** of the Master Declaration), right and privilege of use of the Master Amenities, Common Areas and Easements (as referenced in **Section 9.1.2** of the Master Declaration), and nominal values (as referenced in **Recital F** of the Master Declaration) of the Second Supplemental Property as they apply to the Second Supplemental Property are shown on **Exhibit B** to this Second Supplement.

3. **Rights of Declarant Reserved.** Notwithstanding any provision of this Second Supplement, all of the rights of Declarant under the Declaration remain reserved in Declarant.

4. **Restrictions on Use, Design and Construction.** Without limiting the generality of **Article 2** of this Second Supplement, the Second Supplemental Property is subject to the provisions of **Article 4** of the Declaration and the owners of Lots therein must comply with all of the requirements thereof. This restriction includes, without limitation, the requirement that the Second Supplemental Property may be used only for one single-family residence per Lot.

5. **Timing of Construction.** Without limiting the generality of **Article 2** of this Second Supplement, the Second Supplemental Property is subject to the provisions of **Articles 3 and 6** of the Declaration and the owners of Lots therein must comply with all of the requirements thereof. **Articles 3 and 6** include, without limitation, the requirements that each Lot owner's design plans be approved by the ARC prior to making any improvements to the Second Supplemental Property and that any construction activity be concluded within one (1) year after it has been commenced. In addition to such requirements, all Lot owners of the Second Supplemental Property must assure that the construction of a single-family residence commence within eighteen (18) months of the date of Closing on such Lot (the "Commencement Period"). If a Lot owner is unable to begin construction within the Commencement Period due to delays in ARC approval or for any other reason outside of such Lot owner's control, Declarant, in its sole discretion, may grant in writing such Lot owner an extension for up to an additional six (6) months to commence construction.

6. **Common Areas and Easements.** Each Lot in the Second Supplemental Property, and each owner thereof, is benefited by and subject to both the Basic Common Amenities, Common Areas and Easements and the Master Common Amenities, Common Areas

and Common Easements, as set forth in **Article 9** of the Declaration, and all of the assessments as set forth in **Article 11** of the Declaration.

Effective as of the date first written above.

Beazer Homes Investments, LLC,
a Delaware limited liability company

By: Beazer Homes Corp., a Tennessee corporation, managing member

By: _____
Ann Parker,
Cincinnati Division President

STATE OF OHIO)
) SS:
COUNTY OF BUTLER)

BE IT REMEMBERED, that the foregoing instrument was acknowledged before me, a notary public in and for said state, this ____ day of _____, 2007 by Ann Parker, Division President of Beazer Homes Corp., a Tennessee corporation, managing member of **BEAZER HOMES INVESTMENTS, LLC**, a Delaware limited liability company, on behalf of the company.

Notary Public

This instrument was prepared by:
Christopher P. Finney, Esq.
FINNEY, STAGNARO,
SABA & PATTERSON CO., L.P.A.
2623 Erie Avenue
Cincinnati, Ohio 45208
(513) 533-2700 (phone)
(513) 533-2999 (fax)

EXHIBIT A

EXHIBIT B

Lot Number	Lot Type	Right to use Master Amenities, Common Areas and Easements	Nominal Values
Montgomery County, Section 1 Lots 1-16	40,000 Square Feet Lots	Yes	125

067-38-10-74⁰⁰, P152 P159 P118



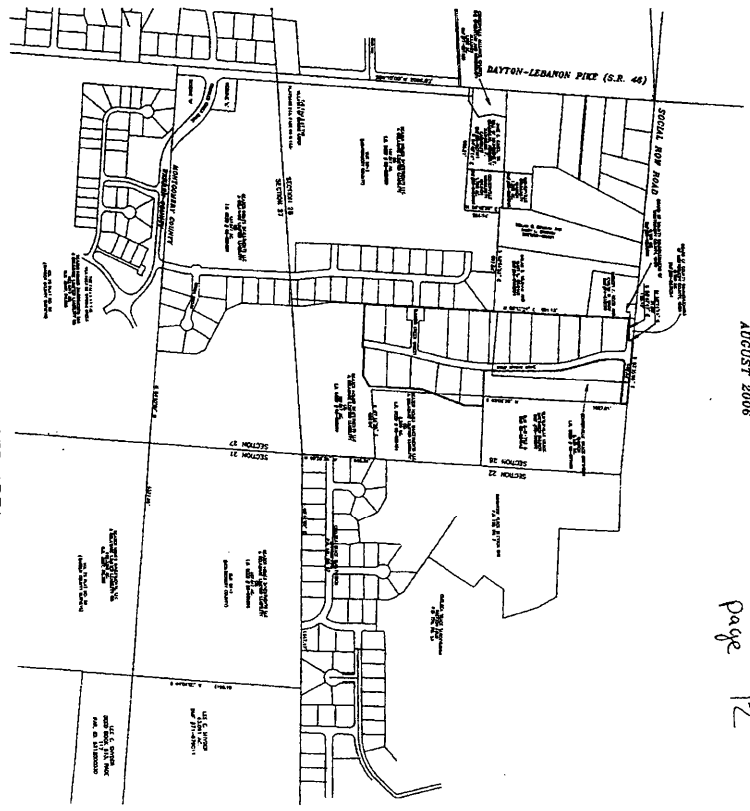
YOUNG MAP
(NOT TO SCALE)

RECORD PLAN
THE SPRINGS AT THE
VILLAGES OF WINDING CREEK
SECTION ONE

SECTION 28, TOWN 3, RANGE 5, M.R.S.
WASHINGTON TOWNSHIP
MONTGOMERY COUNTY, OHIO
CONTAINING 21.225 ACRES
AUGUST 2006

Plan Book 205
Page 12

TRANSFERRED
06/09/21 P152-79
Kathleen
Auction



SUPERIMPOSED AREA
THIS PLAN SHOWS THE SUPERIMPOSED AREA OF THE PROJECT AS SHOWN ON THE RECORD PLAN. THE SUPERIMPOSED AREA IS SHOWN IN SHADING.

PLAT BOOK 205 PAGE: 12

APPROVED FOR SUBMISSION
SUBMITTED BY: *[Signature]*
DATE: 11/2/06

RESUBMIT PLANNING COMMISSION APPROVAL
THIS PLAN IS APPROVED BY THE MONTGOMERY COUNTY PLANNING COMMISSION ON 11/2/06

THE SPRINGS AT THE
VILLAGES OF WINDING CREEK
SECTION ONE
SHEET 1 OF 3

DEVELOPERS:
MONTGOMERY COUNTY PLANNING COMMISSION
11-3-07

APPROVED FOR SUBMISSION:
[Signature]
DATE: 11-3-07

APPROVED FOR RECORDATION:
[Signature]
DATE: 11-3-07



PROFESSIONAL ENGINEER'S CERTIFICATE:
I, R. D. ZANDER, a duly Licensed Professional Engineer in the State of Ohio, hereby certify that I am the author of the above described plan and that the same conform to the provisions of the Ohio Revised Code, Chapter 307, and the rules and regulations of the State Board of Professional Engineers, Ohio, and that the same are in accordance with the provisions of the Ohio Revised Code, Chapter 307, and the rules and regulations of the State Board of Professional Engineers, Ohio.

R. D. ZANDER & ASSOCIATES, INC.
[Signature]
DATE: 11/2/06

PREPARED BY
R. D. Zander & Associates
11600 HERRICKS AVENUE
CINCINNATI, OHIO 45248
TEL (513) 748-6582
FAX (513) 748-6580

MONTGOMERY COUNTY PLANNING COMMISSION APPROVAL
11/2/06

RESUBMIT PLANNING COMMISSION APPROVAL
THIS PLAN IS APPROVED BY THE MONTGOMERY COUNTY PLANNING COMMISSION ON 11/2/06

Exhibit B

Planned Amenities*

1. Four entrance monuments and signs
2. A clock tower in the center of one of the roundabouts
3. A water feature in the center of the other roundabout
4. A clubhouse
5. Pool

* All such planned amenities to be reasonably determined and constructed by Developer in Developer's sole and absolute discretion.

Exhibit C

**Buyer/Homeowner Acknowledgement
The Villages of Winding Creek**

The undersigned buyer/homeowner ("Homeowner") in The Villages of Winding Creek (the "Development") acknowledges in conjunction with the purchase of a lot in such Development (the "Lot") all of the following:

- 1) The Lot is benefited by and encumbered by (i) a certain Master Declaration of Protective Covenants and Restrictions for the Villages of Winding Creek (the "Declaration"), (ii) the supplement to the Declaration for The Springs, Phase I, and (iii) any other supplements or amendments thereto (together, the "Covenants"). Homeowner acknowledges that Homeowner has received and read of a full copy of the Covenants, in addition to the bylaws and regulations of The Villages of Winding Creek Master Property Owners Association (the "Master Association").
- 2) At closing on the purchase of the Lot, Homeowner shall pay to the Master Association the full sum of one thousand dollars (\$1,000.00) as a capital contribution assessment (the "Capital Contribution Assessment") towards the operating expenses of the Master Association.
- 3) In addition to the Capital Contribution Assessment, the Master Association shall be levying annual, quarterly or monthly assessments for maintenance and operation of the common areas within the Development, as well as periodically certain other assessments as set forth in the Covenants.
- 4) The Covenants contain certain restrictions on the uses of the common areas and the lots within the several subdivisions comprising the Development.
- 5) Homeowner may have seen certain drawings, renderings, plats and other depictions, and may have had certain oral representations made by representatives of Beazer Homes Investments, LLC ("Beazer"), or oral and written representations made by the Homeowner. However, Homeowner acknowledges that Beazer has not committed to and shall not be bound to make any improvements to the Development except as specifically covenanted and authorized in writing by the Beazer.

Homeowner(s):
